Public Utilities

FORTNIGHTLY

Volume L No. 8 October 9, 1952

SHOULD THE SEC CONTINUE TO "STUDY" UTILITY SYSTEM OPERATIONS?
By William A. Paton

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The Use of Economic Leverage to Eclipse Private Power
By John D. Garwood

« »

State Legislatures' Action on Utility Laws
By Bethune Jones

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Chicago's Electric Theater
By William H. Bromage

78

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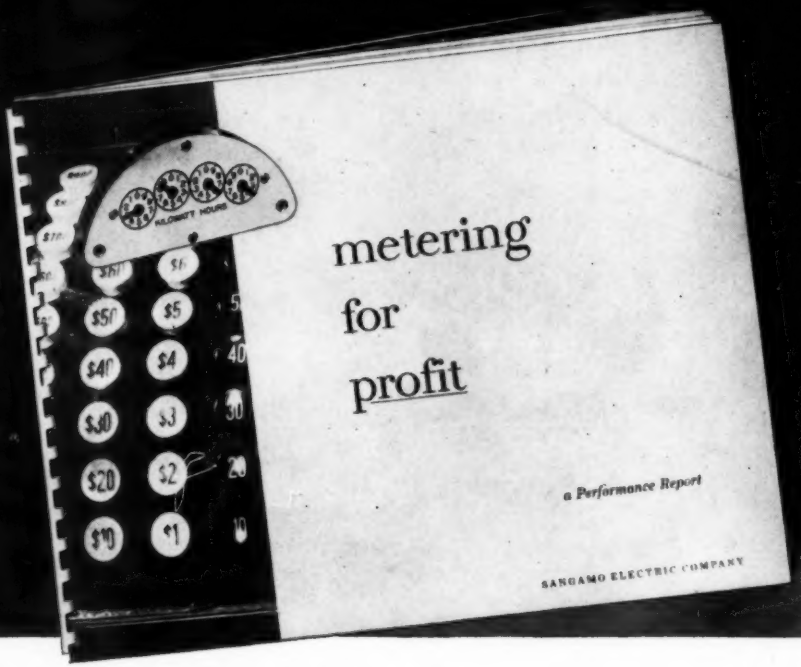

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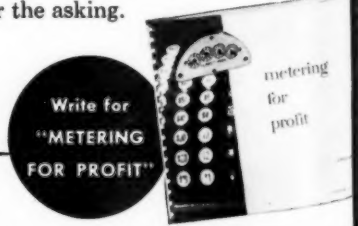

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Public Utilities FORTNIGHTLY

VOLUME L OCTOBER 9, 1952 NUMBER 8

ARTICLES

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PUBLIC UTILITIES FORTNIGHTLY.. stands for Federal and state regulation of both privately owned and operated utilities and publicly owned and operated utilities, on a fair and nondiscriminatory basis; for nondiscriminatory administration of laws; for equitable and nondiscriminatory taxation; and, in general—for the perpetuation of the free enterprise system. It is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is supported by subscription and advertising revenue; it is not the mouthpiece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.

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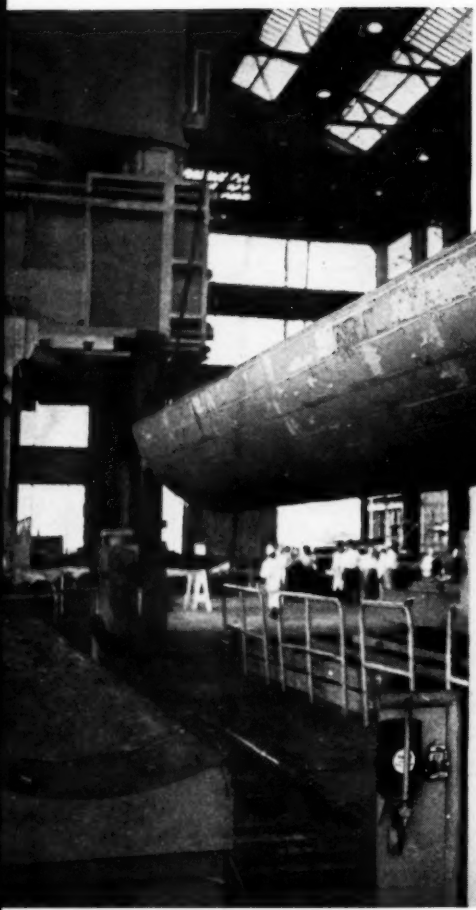
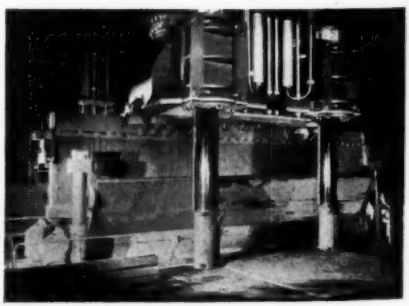
BIG "NEWS" at B&W



This mammoth draw bench installed by Babcock & Wilcox introduces into America a unique method for faster forming of headers and other seamless hollow forgings for the high pressure and temperature conditions in modern steam generating units. This method uses less steel, is quicker and more flexible than previous procedures . . . heavy-wall piping and hollow boiler parts up to 35 inches outside diameter with 4½-inch walls and 22 feet long are forged with great speed.

Huge steel plates 42 feet long are formed into sections of massive boiler drums on a new press installed by Babcock & Wilcox. Largest ever built for this purpose, the press is speeding fabrication of power plant boilers by considerably reducing total plate bending time and permitting use of fewer and larger boiler drum sections, thus eliminating welding and X-raying of additional seams required when smaller plates are used. The new press, designed and under construction in advance of the electric companies' record power expansion, bends thicker boiler drum plate than does any other equipment now in operation, and enables B&W to build steam generating units for the highest pressure and temperature conditions that may be anticipated.



Highlighting a multi-million dollar expansion program at Babcock & Wilcox are two new giant machines to speed production of steam generating equipment for America's electric companies. Along with other new production facilities, more trained personnel, and three additional plants, these new machines are geared to forecasts of, and B&W's faith in, power's future.

BABCOCK & WILCOX

G-578

Pages with the Editors

PUBLIC utility people are still talking about the challenging remarks made by Charles E. Wilson, former president of the General Electric Company and until last spring head of the Office of Defense Mobilization. Addressing a New York industry luncheon last month, Wilson commented on the fact that the government must be just as ready to get out of business ventures it undertakes as to get into them if we are to halt the steady trend towards Socialism. Most readers of these pages are familiar with the intriguing proposition which Wilson outlined, permitting citizens to switch their defense bonds into stock of corporations which would take over government power projects.

WILSON was still head of the ODM when he first made a generalized proposal along this line last February. He pointed out that the Federal government now owns and operates many billions of dollars worth of properties devoted to operations which are similar to those of business corporations owned by citizens of our country. Whether it was a desirable thing for the government to embark on these projects in the first place, Mr. Wilson proposes that they be capitalized as private enterprise and the securities sold to investors.

JOHN D. GARWOOD

WILLIAM A. PATON

ASIDE from that, however, the daring originality of the program consisted in no small degree of its forthright purpose of easing the government out of *any* activity. For the past two decades or longer, the trend has all been in the other direction.

IT is not alone in the field of government operations that the question of reversible activity of government operations has come up for recent discussion within our own more limited field of regulation. We have recently seen the Securities and Exchange Commission showing admitted signs of reaching the end of the road in its statutory rôle of breaking up the holding companies. Here is a bureau which has done its work well according to a majority of observers, or not so well according to some dissenters. But, in any event, the job is about to come to an end. What happens now?

IN our September 11th issue we had an interesting proposal by Chairman Donald C. Cook of the SEC for keeping the SEC Division of Public Utilities in operation in another but allied rôle. Instead

of supervising the decline and dissection of the holding companies, it would, under § 30 of the act, study and recommend the integration of various systems. Chairman Cook made out a persuasive case for keeping the SEC around for duties which would indicate that holding company regulation is in a new phase—system integration.

Now comes dissent from an authoritative quarter in the form of an open letter sent to Chairman Cook, who is also a friend of the dean of accounting authorities in America, WILLIAM A. PATON. He tells us why he thinks it would be unwise for the SEC to take on any "post-graduate duties" now that its holding company reorganization job is coming to an end. To round out this series, we also present a reply in the same friendly spirit by Chairman Cook. Both of these communications constitute the opening feature in this issue which we are sure our readers will find not only of interest but of lasting value as reference documents, together with Chairman Cook's original discussion along these lines in these pages.

DR. WILLIAM A. PATON was born in Calumet, Michigan, and educated at Michigan State Normal College and the University of Michigan (AB, '15; AM, '16; PhD, '17). He has had a long and distinguished career in teaching of economics and accounting, beginning as an instructor at the University of Michigan. He has been a professor of that subject at that institution since 1921 and has also been visiting lecturer at the University of California, the University of Chicago, and Harvard School of Business Administration. He is a fellow of the American Academy of Arts and Sciences and one-time president of the American Accounting Association, and the author of numerous books and articles on that subject, climaxed by the recent and popular *Shirt Sleeve Economics,* reviewed in this magazine, issue of July 17, 1952.

* * * *

ANOTHER article on economics in utility operations by a scholar in that subject comes to us from DR. JOHN D. GARWOOD (beginning page 481), associate professor of economics, Fort Hays Kansas State College. DR. GARWOOD is a graduate of the University of Wisconsin (MA) and has done graduate work at the universities of Louisiana, Southern California, and Colorado (PhD). After some teaching experience at Morningside College and at Louisiana and Colorado universities, DR. GARWOOD is now on the faculty of Fort Hays Kansas State College. He has been granted an industrial fellowship by the Foundation for Economic Education. He is associated with the Atchison, Topeka & Santa Fe Railway Company in Chicago.

WILLIAM H. BROMAGE

* * * *

WILLIAM H. BROMAGE, whose article on "Chicago's Electric Theater" begins on page 495, is news service manager of Commonwealth Edison Company. In that capacity he handles publicity for the Chicago utility. He is a former newspaperman who started in that profession with the *Providence Journal* following his graduation from Brown University in 1923. Subsequently he was with the *Detroit Free Press* and *Chicago Tribune* before entering the public utility field.

THE next number of this magazine will be out October 23rd.

The Editors

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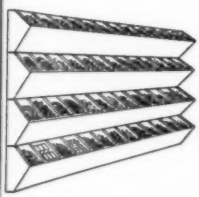

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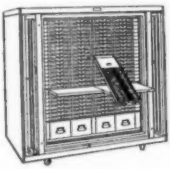

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Coming IN THE NEXT ISSUE

★

REORGANIZATION OF A MODERN REGULATORY COMMISSION

When it all began in 1907, the New York Public Service Commission was frankly an experiment conducted by five commissioners and a handful of employees. By 1930, the staff had grown to 267 and by 1949 to 610. But the increasing duties and complexities of regulation in the great state of New York resulted in a state budget bureau recommendation for a reorganization on a functional basis. The result put into practice during the past fiscal year has been probably the most comprehensive reorganization of a major state regulatory board in the country. It may well be a model for similar well-planned changes and adjustments elsewhere in the interest of efficiency and effective operation. Chairman Benjamin F. Feinberg, under whom these extensive changes have taken place, gives us a complete before-and-after account of the reorganization of the New York Public Service Commission.

INVESTOR RELATIONS—
AN IMPORTANT ASPECT OF UTILITY MANAGEMENT

It goes without saying that personalized investor relations are important to utility industries. Paul Hallingby, Jr., of the Middle South Utilities Company, has written a brief but valuable and up-to-date account of what can be done to make groups of stockholders, particularly institutional investors and analysts, familiar with a given utility system operation.

FREE FLOOD CONTROL BY UTILITIES ON WISCONSIN RIVERS

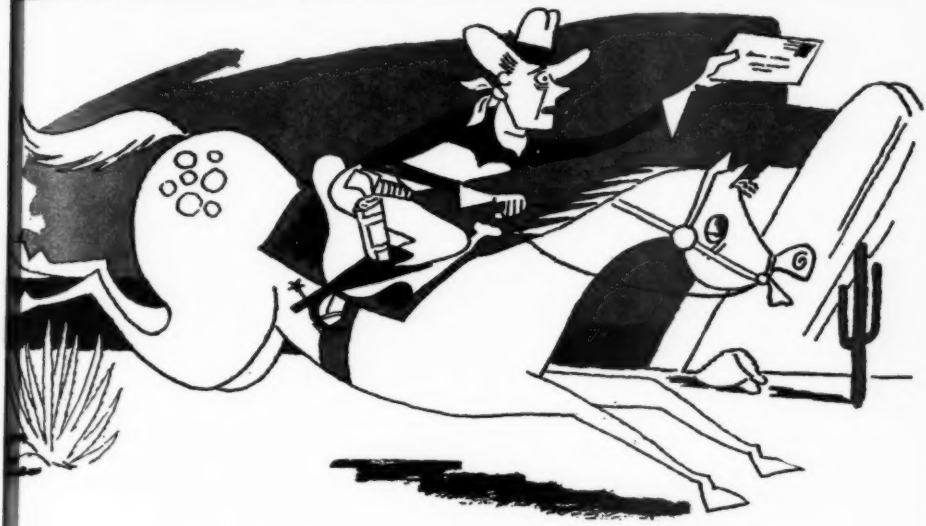
We often hear advocates of large-scale government multipurpose projects repeat the statement that such programs by their very nature are too large and too diverse in their objectives to be conducted by private business corporations. The implication is that if the over-all program must be conducted by the government in default of private investment, the utility phases must likewise remain under government control and operation. Professor Arno T. Lenz, of the University of Wisconsin, gives us an interesting reverse point of view on this subject. It is not only a theory but a fact that Wisconsin utilities, including co-operatives, are performing governmental type services without charge as part of their hydroelectric development.

ADDRESSES ON UTILITY PROBLEMS BEFORE
THE AMERICAN BAR ASSOCIATION—APPENDIX

Not only legal, but economic and financial problems of operating public utilities engaged the attention of the Section of Public Utility Law of the American Bar Association. This appendix contains the reporting of the various addresses given at the sessions of the annual meeting of the Section of Public Utility Law during the American Bar Association convention at the Palace Hotel in San Francisco on September 15th to 19th. The panel discussion, the "Regulatory Lag," was an especially provocative and timely feature of this program, full text of which will be used in the forthcoming Appendix.

★

Also . . . ***Special financial news, digests, and interpretations of court and commission decisions, general news happenings, reviews, Washington gossip, and other features of interest to public utility regulators, companies, executives, financial experts, employees, investors, and others.***



There's a faster way!

Many of the tasks that used to take weeks and weeks to do can be finished now in a few days—or even mere hours.

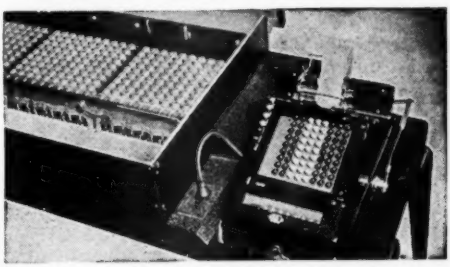
In your offices, too

For instance: At one time, it was a tremendous clerical job to analyze consumers' bills. Additional help had to be acquired and trained. It took weeks and weeks to compile an authoritative analysis.

Today it's a far different story. Many utilities simply turn such jobs over to us. Our experienced staff, employing Bill Frequency Analyzer machines, can analyze as many as 200,000 bills each day. And, the cost to you is often ½ of what it would be if the job were done in your offices.

May we send you an informative booklet that tells you more about this method of compiling consumers' usage data? Why not drop a note to us now?

SAVES 50% IN TIME AND MONEY



This Bill Frequency Analyzer—developed especially for utility usage data—automatically classifies and adds in 300 registers—in one step.

P.S. If you use punched cards for billing, we are also equipped to make your analyses from them.

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Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

EDITORIAL STATEMENT
Logan (Kansas) Republican.

"Patrick Henry said: 'Give me liberty or give me death.' His descendants now just say 'Gimmie.'"

EWAN CLAGUE
United States Commissioner of Labor Statistics.

"Both management and labor should realize the problems of one are the problems of the other, and executives of the future should understand labor's problems before they are indoctrinated in business organizations."

HERBERT HOOVER
Former President of the United States.

"It is the average family who pays the bulk of taxes, both income and hidden. Among them are corporation taxes. These are ultimately passed on to their customers or the corporation would quickly go bankrupt."

A. L. LYNN
Vice president, Island Creek Coal Company.

"The natural resources industries . . . are facing an ever-mounting pressure for Federal ownership and controls. The pressure is greatest on the private electric power industry, yet all natural resources industries are threatened in one way or another."

NOAH M. MASON
U. S. Representative from Illinois.

"If Social Security is a form of insurance, as claimed, there should be no penalty for the individual who after retirement age has the opportunity and initiative to earn additional income. An insurance company's annuity plan imposes no such arbitrary restriction upon its beneficiary."

OSCAR R. EWING
Federal Security Administrator.

"Equality of opportunity is among the most cherished ideals of our democracy. This ideal has been widely realized in the field of education in our elementary and secondary schools. The 'Student Aid Bill' removes some of the financial barriers to opportunity in higher education. The bill bars discrimination in the selection of scholars on the basis of race, creed, color, or sex."

BRUCE BARTON
Columnist.

"Today we Americans have lots of dollars, but their purchasing power constantly is shrinking. And we have a government which, having taxed everything else, is now taxing even savings banks and life insurance—the depositories of the people's savings. In other words, the government is treating savings just like liquor or tobacco —as a luxury for which the people who indulge must expect to be penalized."

NEIL PETREE
President, California Chamber of Commerce.

"With the growth of the 'welfare state' to the stage where it is now clearly sapping the self-reliance of the American people and deteriorating American political thought, we have a job cut out for us during the coming year to do all within our power to fight any further centralization of government and the subordination of state and individual rights."

LEWIS W. DOUGLAS
Former Ambassador to Great Britain.

"The one type of inflation which has caused the most permanent damage to society is the type which has its roots in loose public fiscal policy—extravagance in the use of public credit and the public moneys. This type of inflation generally appears only after a protracted period of mismanagement of public finances and a substantial growth in the public debt."

STANLEY C. HOPE
President, Esso Standard Oil Company.

"The need for a reserve of skilled managerial talent trained and experienced in modern business techniques was never greater. As vitally important as are now investments in plants and facilities to the strength of an efficient organization, the development of tomorrow's business leaders is, we believe, the most effective means of insuring continued optimum service to the public."

HENRY H. HEIMANN
Executive vice president, National Association of Credit Men.

"No greater hoax has ever been perpetrated on the American people than the contention that we now and have been in a sound prosperity. If we are to have a wholesome program for peace time, naturally we must assume that such a program can no longer be synthetic in character if it is to produce our objective; namely, the progressive and robust prosperity that all of us have in mind."

WILLIAM HENRY CHAMBERLIN
Columnist.

"The British experience shows that it is much easier to nationalize than to denationalize. Indeed this latter process is about as difficult as unscrambling an omelette. Socialism is likely to prove a one-way street. That is why opening wedges that make for the replacement of individualism by collectivism should be exposed, however alluringly these may be represented as harmless features of a 'mixed economy.'"

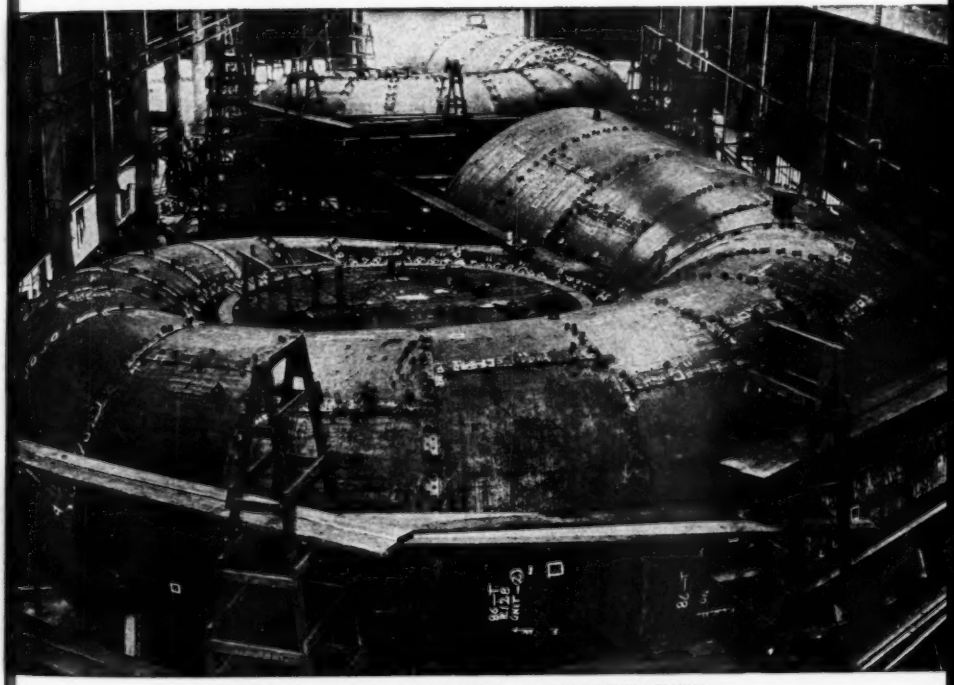
EDITORIAL STATEMENT
The Wall Street Journal.

". . . Dr. L. Dudley Stamp, professor of social geography at the London School of Economics, suggests that the United States is looking rather far afield to spend its money in developing promising areas. Dr. Stamp says we ought to go to work on the Mississippi valley and stop spending money on the Amazon. He said that no amount of money can alter the economic productivity of the Amazon valley because of its geography and climate. We're wasting our time and money, he says."

RUNNER FOR BUGGS ISLAND DEVELOPMENT

OVER EIGHT MILLION HORSEPOWER

The Newport News Shipbuilding and Dry Dock Company has received orders for the building of hydraulic turbines aggregating output of 8,150,000 horsepower.



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NEWPORT NEWS

SHIPBUILDING AND DRY DOCK COMPANY

Newport News, Virginia

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And that's not all, there are many more sales-building features. In fact, look at the list at left. You'll see why the Model 50 Gasapack gives you better product performance, more customer satisfaction and more profits.

Get all the facts about this trouble-proof A-P control. Find out how you can use it on your line of gas hot water heaters. Write today for bulletin G16.

10 big reasons why new A-P Model 50 Gasapack is better:

- Provides close, even water temperature regulation.
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- No possibility of water getting into gas line, or vice versa, since the two aren't in contact.
- All orifices removable from the front for easy service.
- Control unit and burner can be mounted integrally—installed, removed and serviced as a unit.
- 100% safe, automatic operation.
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- Easy to clean and service.

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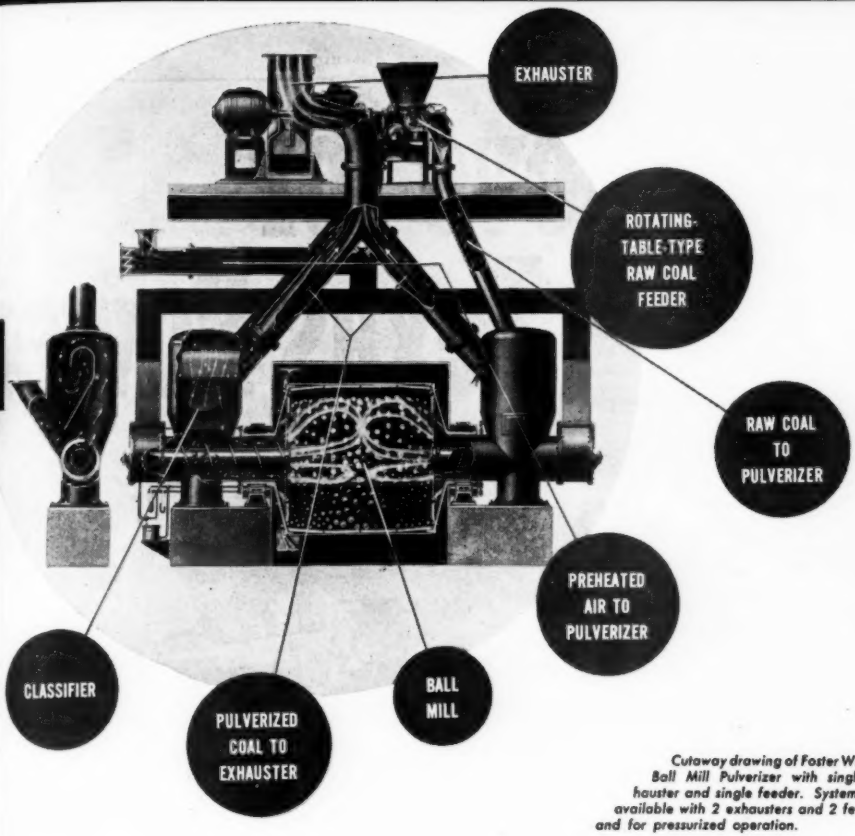

Cutaway drawing of Foster Wheeler Ball Mill Pulverizer with single exhauster and single feeder. Systems also available with 2 exhausters and 2 feeders; and for pressurized operation.

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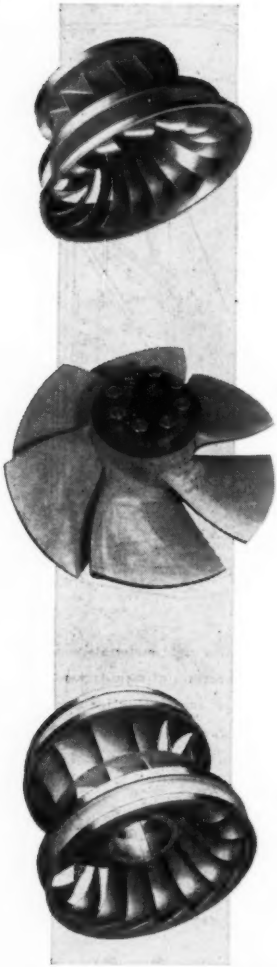

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So why not let us help you with *your* hydraulic power project, whether it be expansion, rehabilitation or a new installation? Of course, there is no obligation. Write, wire or phone today.

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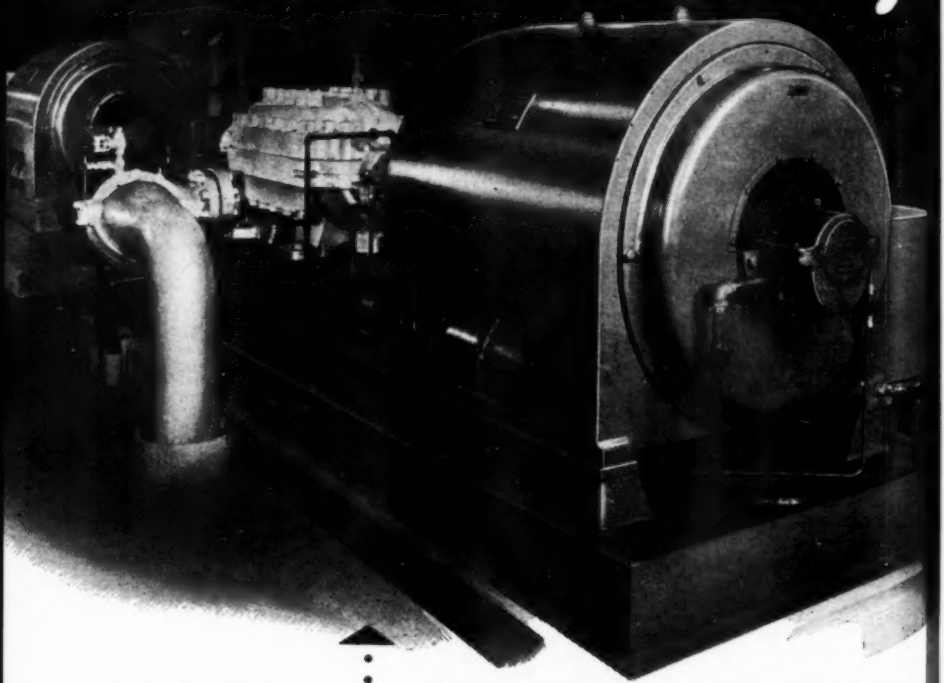

Two Elliott 600-hp, 3570-rpm, two-pole squirrel-cage induction motors driving boiler-feed pumps in a prominent eastern station. Elliott motors are also used in this plant for driving coal pulverizers, induced-draft and forced-draft fans, ash sluice pumps, etc. In outdoor splash-proof design, Elliott motors operating in the open, exposed to all weathers, are also serving utilities all over the country.

LARGE MOTORS of Elliott "Fabri-Steel" construction are more and more in evidence in utility service. These motors are actually tailored of steel plate, flame-cut, electrically welded throughout, and machined to close limits where required. This construction allows a new freedom of motor design, great rigidity, positively maintained air gap, extremely easy access, and lower maintenance.

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CROCKER-WHEELER DIV., AMPERE, N. J.
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DISTRICT OFFICES IN PRINCIPAL CITIES

22-21

Utilities Almanack

October

9	Th	¶ *Pacific Coast Regional Restaurant Convention and Exposition end, Los Angeles, Cal., 1952.*
10	F	¶ *California Natural Gasoline Association begins fall meeting, Los Angeles, Cal., 1952.*
11	Sa	¶ *Women's Advertising Clubs begin annual midwest intercity conference, Grand Rapids, Mich., 1952.*
12	S	¶ *American Water Works Association, Southwest Section, begins annual meeting, Tulsa, Okla., 1952.*
13	M	¶ *United States Independent Telephone Association begins annual convention, Chicago, Ill., 1952.*
14	Tu	¶ *Edison Electric Institute, Electrical Equipment Committee, ends 2-day meeting, New York, N. Y., 1952.*
15	W	¶ *American Gas Association will hold annual convention, Atlantic City, N. J., Oct. 27-30, 1952.*
16	Th	¶ *Southeastern Electric Exchange begins accounting conference, New Orleans, La., 1952.*
17	F	¶ *Southern Gas Association, Western Area, Accounting Section, begins round table on customer accounting, Tulsa, Okla., 1952.*
18	Sa	¶ *National Association of Railroad and Utilities Commissioners will hold annual meeting, Little Rock, Ark., Nov. 10-13, 1952.*
19	S	¶ *National Association of Radio Farm Directors, Southeastern District, ends 3-day convention, Winston-Salem, N. C., 1952.*
20	M	¶ *National Farm Electrification Conference begins, Detroit, Mich., 1952.* ¶ *National Metal Exposition begins, Philadelphia, Pa., 1952.*
21	Tu	¶ *American Dietetic Association begins exposition, Minneapolis, Minn., 1952.* ¶ *Independent Petroleum Association ends 2-day annual meeting, Tulsa, Okla., 1952.*
22	W	¶ *Oklahoma Utilities Association, Electric Light and Power Division, Western District, begins meeting, Lawton, Okla., 1952.*

Courtesy, Pennsylvania Power & Light Company

"Wired Hand" Calls Hired Hands to Supper

An example of new use for power is demonstrated on America's first "All Electric Farm," center of recent celebrations in Pennsylvania.

Public Utilities
FORTNIGHTLY

VOL. L, No. 8 October 9, 1952

Should the SEC Continue to "Study" Utility System Operations?

A friendly but critical open letter addressed to Chairman Donald C. Cook of the SEC, after hearing his recent discussion at the University of Michigan seminar at Ann Arbor, which was published in the September 11th issue of PUBLIC UTILITIES FORTNIGHTLY.

BY WILLIAM A. PATON*
PROFESSOR OF ECONOMICS, UNIVERSITY OF MICHIGAN

IN your recent discussion of § 30 of the Holding Company Act, you made a favorable comment on the decentralization of corporate structures resulting from the act (a program now largely completed) and pointed out that this made possible a restoration and strengthening of utility regulation at the local or area level. This made sense to me. But is this attitude consistent with a program of far-reaching planning and interference with the separate operating units resulting from the breaking-up process, including compulsory integration through the instrumentality—if need be—of the Federal Power Commission? To me, at any rate, your main proposal can be justified only on the basis of the theory that following the

*For additional personal note, see "Pages with the Editors."

dismemberment of the combinations worked out privately two or three decades ago it now becomes the duty of the Securities and Exchange Commission to gather together the resulting pieces under Federal auspices and compulsions—pieces that many of us have been assuming were now supposed to be given a chance for their lives as independent, privately owned, state-regulated (in large measure) entities. To one made suspicious by the events of the past twenty years, this looks very much like another step in a program which has as its ultimate purpose, implicit if not avowed, the socialization of the utility industries. Otherwise, why lay stress at this juncture on the somewhat obscure and roundabout potentialities of § 30—peacefully accumulating dust for seventeen years?

I SHOULD interpolate here that I recognize the right of anyone to a thoroughgoing belief in nationalization of the utility business, or in complete state Socialism. I believe such a person is mistaken if he concludes from his analysis that some form of Socialism or statism is the road to greater freedom and happiness for most individuals, or an increasing level of economic well-being per capita, but opinions may well differ on this point, despite the numerous laboratory experiments being played out before our eyes in England and elsewhere.

My point is that I feel we have reached a juncture in this country at which we must do some soul-searching. If a person becomes convinced that we should pursue the road to some form of nationalization, he may well conclude that the most painless way to get there is gradually to strait jacket and impair the rights of the common stockholder—the fellow who puts up the risk money—until his position becomes untenable and, finally, the tax power of government is substituted as the cushion for the senior securities. Indeed the dispossession may take a form in which the common stockholder still holds his certificates—or some certificates — and is permitted to assume a sort of inferior bondholder position, with government carrying the ultimate risk. Many people on both state and Federal regulatory bodies seem to be taking this position. Some of my regulatory friends go so far as to say, in effect: "Any fool can run a private utility nowadays under regulation as such regulation practically guarantees continuing and modestly successful operation, even including a quasi contractual—and low level—of income for the common stock." I can understand this even if I don't approve.

HOWEVER, I don't believe this is the way it will work out. Under the present regulatory framework a utility enterprise is far from a guaranteed business; it involves serious financial and business risks; it requires good management to keep its head above water. And if the rights and potentialities of the risk capital involved are chipped away, bit by bit (for example, by continuing to insist that a 1952 dollar represents full recovery of a 1940 dollar invested), such capital will be largely lost in the process, although it may take several years more to do it (and some may save their hides by sale to public power authorities — a

The Incentive of Private Management

"I SINCERELY hope that in any program of making more use of § 30 it will be recognized that private management can generally be relied upon to take the initiative in making changes where major advantages can be anticipated by investors as well as customers, and that friendly encouragement is about all the help that is needed from any Federal agency. To repeat, what is especially needed now is not more direction and dictation but creation of a feeling of confidence that Federal agencies are not unfriendly to private ownership and management."

tremendous temptation under present conditions).

WHAT I'm trying to say is that we should face up to the situation, appraise it cold-bloodedly, and decide whether we want to retain private management and private property—in some reasonable sense of the terms rather than in such emasculated forms as to be unrecognizable as such — or whether we want to go sled-length into nationalization. The situation at the moment is ticklish and delicately balanced, and there is a real need for a review of attitudes on the part of every regulator, and on the part of every manager and investor as well. It seems to me that many Americans at the moment are floundering in the middle of an ideological lake, treading water, talking about a mixed economy, and without clearly thinking through to fundamental conceptions and objectives. And they may drown out there in the middle if they don't decide pretty soon which shore they are heading for! This state of confusion and indecision, it should be admitted, is just as evident in the attitudes of businessmen as in the attitudes of government officials.

Now let's assume for a moment that a regulator genuinely prefers to retain private management and private investment, including the cushion money, in the utility fields, on a large and potent scale. In this event, he needs to watch his step to see that his policies and programs are consistent therewith, in so far as this is possible under the legal framework of his assignment. I don't need to point out to you that the private utilities are in a tax trap, as compared to co-operatives and governmental operations. They are at a great disadvantage in this respect, and there is at least some ground for assuming that private ownership and operation has some merit, in view

of the fact that the private companies have not all given up the ghost before this.

I HOPE it is not necessary to point out, also, that a regulatory framework which gives lip service to "cost" as a rate base approach, and then blindly or otherwise refuses to determine cost accurately when a major change in the value of the measuring unit has occurred, will absolutely wreck the common stockholder in the utility field — and thus wreck private ownership—if continued much longer. As I have often said, cost is not merely a figure on a piece of paper. Cost represents economic sacrifice incurred, economic power committed, and one 1940 dollar of commitment requires two 1952 revenue dollars to match it, to say nothing of a return on the investment. Until this simple fact is recognized, taxwise and ratewise, the utilities will continue to slide downhill in their ability to maintain a sound layer of common stock money in the business. And I predict that this sliding process will become very apparent in financial circles in five years or less.

I applaud your decision to remain neutral with respect to the argument regarding private *versus* public power, *provided* you mean a kind of neutrality which seeks to maintain the present proportions of private and public operation. On the other hand, as I see it, a neutrality that regards with complacency—and perhaps fosters—the features of the regulatory environment, and the political climate generally, that will in time destroy private power as we know it, completely, is not true neutrality. This is the Leland Olds brand of "neutrality," and we have had a lot of it.

I REGARD the utility problem at the present time as of peculiar importance because the field represents a sort of halfway house in the battle between private enterprise and Socialism. To quote from pages 427-428 of my *Shirtsleeve Economics*:

> For some decades now the railways and other "public utilities" have been subjected to more or less complete price regulation and operating control by governmental agencies without being "nationalized" or otherwise converted into government enterprises (excepting the water business and the inroads in the electric field noted . . .). The utility field is thus a major example of the "mixed economy"—an area half bound and half free—in the midst of an over-all situation that we still describe as dominantly private enterprise. In these circumstances the utilities take on a special importance from the standpoint of the struggle to maintain economic freedom and check the drive toward Socialism. The utilities should not be regarded as a lost cause. In a sense this field is still the first line of defense. The area has been in part overrun by government, it is true, but it retains significant features of private initiative, investment, and management. Nationalization of the important utilities is usually the first step in a formal socialistic program, and if this step can be avoided there may be some possibility of arresting the creeping collectivism we have been experiencing throughout industry.
>
> The public utilities, it should be remembered, are businesses in which there are inherent difficulties in the way of maintaining thoroughgoing competitive conditions, and this fact affords a special excuse for governmental interference. If in this situation regulation can be made to play

the rôle of competition, without degeneration into state ownership, we will have a demonstration of the vitality of private enterprise, and the undesirability of undertaking to socialize the nonutility, competitive field—the broad area which affords the yardsticks on which to base successful regulation.

IT seems clear to me that the pendulum has swung dangerously far in the direction of nationalization of the utilities and — ultimately — all major lines of business. The private utilities now face an enormous handicap in the tax structure, direct government competition (often subsidized and characterized by improper allocations of cost), and a rigid, unrealistic, and often unfriendly regulatory framework. With these conditions—if private ownership and operation in any significant sense are to survive—amelioration not stiffening of public control is needed. Private management must be encouraged to get out and hustle, do a good job, and no management can do this when hamstrung by intimate, detailed interference and control. Moreover, and this is the heart of the problem, regulation must be conceived as a zone or area rather than a chalk mark, so that at least a part of the results of good management can redound to the advantage of investors, the owners. To quote again from *Shirtsleeve Economics:*

To insure conditions that will make possible a continuing inflow of capital, including an adequate layer of stockholder investment, and to encourage efficient management, the utility enterprise must be given some elbowroom, some latitude. Regulation, that is, should take the form of outlining a zone of reasonableness in which the utility is free to operate, rather than prescribing a strait jacket in which the business is rigidly confined or a razor edge on which it is precariously balanced. As long as earning power is within such a zone there is no occasion for action by the regulatory authority. The efficient utility, well located, may have a level of earnings continuously near the top border of the zone without there being any justification for adverse action as to rates charged. Similarly, the inefficiently managed concern may struggle along near the bottom line of the zone without having a convincing case for special relief. The regulatory body may in effect say to the company and its management:

"We want you to pitch in and do a good job. If your earning power improves as a result of good management and other favorable conditions we are not going to insist on a rate reduction as long as your average earnings fall within a broad zone of reasonableness. By the same token if you operate inefficiently, and as a result of such inefficiency your earnings decline, don't come running to us for relief. We won't help you unless you first try to help yourselves."

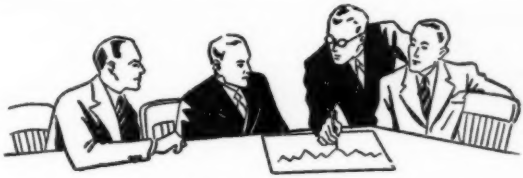
¶ "IT *seems clear to me that the pendulum has swung dangerously far in the direction of nationalization of the utilities and—ultimately—all major lines of business. The private utilities now face an enormous handicap in the tax structure, direct government competition (often subsidized and characterized by improper allocations of cost), and a rigid, unrealistic, and often unfriendly regulatory framework.*"

This is a common sense policy that should be quite effective in encouraging good operation. If, on the other hand, the regulatory body stands over the utility like a guard, insisting on an immediate rate reduction every time things brighten up a little and the utility earns a dime more than a bare nonconfiscatory level of income, the inducement to provide capital and opperate effectively soon withers away. The making of price adjustments through a process of prescribed procedure rather than as a result of market forces can't possibly be instantaneous, and in practice adjustments have seldom been made promptly. In many cases lengthy hearings and protracted litigation, carried on at substantial cost, have been involved. The history of regulation, indeed, is a long record of expensive controversy, and one of the bad effects has been an unduly rigid and insensitive price structure. It would be very helpful if regulatory legislation and practices could be amended in such a way as to give the utilities a right to make limited adjustments of rates to consumers, up or down, entirely on their own initiative, with the understanding that the changes may be reviewed periodically by the agencies charged with the duty of control. This would be consistent with the view that regulation should map out zones or ranges within which the private owners and their representatives are free to make decisions.

To focus the point more sharply, I believe that if private management and private investment can be given a little more encouragement, a little more elbowroom, a little more assurance that regulatory agencies are not out to scalp them, we can get more efficiency, better integration, etc., on the initiative of management, without much help through further implementation of § 30. One thing specifically needed in this connection is elimination or moderation of FPC accounting absurdities. Suppose Company A is proposing acquiring the property of Company B. Everyone agrees that it's a good deal. The consumers like it, the stockholders of both companies like it, the commission likes it. Further, it's agreed that $8,000,000, cash, is a fair price. But at the last minute, when the state commission—unduly subservient to some weird Federal staff ideas—believes it is too late for either party to back out, Company A is notified as follows:

> By the way, there's one little detail not previously seen to. Our staff finds that the "original cost" of the property, in the special way in which we define the term, is only $4,000,000 (and we won't countenance the fact that these are largely 1940 and earlier dollars). Accordingly it will be necessary, as another condition of our approval of the transaction, that the transfer be recorded by debiting 50 per cent of the cash purchase price of the property, $4,000,000, directly to earned surplus.

Except for rounding the figures and paraphrasing the commission's statement, this is an actual case, and it illustrates the treatment accorded to every other similar case that has come up—according to my data—where FPC influence was directly or indirectly dominant. In this particular deal Company A, almost ready to have the check signed, withdrew at the eleventh hour, somewhat to the discomfiture of the commission. Perhaps a way can be found to compel acquiescence in such cases, but surely it is plain that investors have no reason for investing $8,000,000 when they know in advance that the rate base allowed will be only $4,000,000.



Encouragement More Needed than Advice

". . . I believe that if private management and private investment can be given a little more encouragement, a little more elbowroom, a little more assurance that regulatory agencies are not out to scalp them, we can get more efficiency, better integration, etc., on the initiative of management, without much help through further implementation of § 30."

No doubt you will agree that under private ownership and management there is no inducement to go ahead with any integration move or property transfer unless an advantage to the stockholders can reasonably be expected to result.

I sincerely hope that in any program of making more use of § 30 it will be recognized that private management can generally be relied upon to take the initiative in making changes where major advantages can be anticipated by investors as well as customers, and that friendly encouragement is about all the help that is needed from any Federal agency. To repeat, what is especially needed now is not more direction and dictation but creation of a feeling of confidence that Federal agencies are not unfriendly to private ownership and management. I'd like to see regulators even go so far as occasionally to mention the fact that with a major inflation on our necks the prices of utility services must rise if a satisfactory flow of private capital, under a sound capital structure, is to be permanently maintained.

I WANT to conclude by saying that I'm not one of those who want to hamstring government. I believe government has some very essential functions to perform, and that we need good men in government service if we are to get these jobs done well. But at the present time I think government is badly in need of a program of decentralization, pruning, and integration, plus a redefinition of functions, high on the list of which should be the objective of fostering efficient, competitive enterprise, and of regulating quasi monopolistic enterprises by application of the standards of competitive business rather than by the yardstick of government operation. In other words, government itself is now badly in need of an operation on the order of the operation that the Holding Company Act provided for the utility business.

Chairman Cook's Reply

FOLLOWING *is the text of a reply to Dr. Paton's foregoing letter in the same friendly and informal tone, by SEC Chairman Cook:*

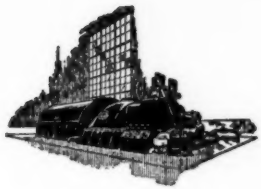
I can't tell you how much I enjoyed reading your letter of comments and observations with respect to the § 30 program I outlined before the public utility executive group in Ann Arbor on July 17th. I am generally in agreement with your fundamental thesis respecting the rôle which government regulation should play in the utility industry and am fully cognizant of the dangers incident to unenlightened regulation which fails to afford sufficient incentives to encourage good management practices throughout the industry.

However, I believe that if you explore more carefully the objectives and standards involved in the program of integration contemplated by § 30 of the Holding Company Act, you will realize that there is by no means any connection between the implementation of that program and the decline of a vigorous private power industry. On the contrary, it seems to me that just the opposite will result because the economies that can be obtained through logical and feasible interconnection of electric and gas lines and systems will go far to encourage the private ownership of public utilities and the attraction of private risk capital into such enterprises. That is why I said in my speech that I felt confident that utility managements would voluntarily undertake to implement such integration reports as are issued by the commission under § 30 if they are predicated on fact and sound judgment.

WE have already taken steps to set up a separate group in our utilities division to commence the studies preliminary to the § 30 reports. I personally feel quite certain that the work we do here will be far more likely to strengthen our principles of private enterprise in the utility industry than to weaken them; but again, as I pointed out in the speech, the question whether integrations should be made upon the basis of public or private ownership is political and one with which the commission should not concern itself. Our task will simply be to examine carefully all of the operating facts in the various utility regions in the country to determine what in each instance is the most efficient and practical arrangement for serving a particular area with electricity or gas in the best interests of investors, consumers, and the public generally. That recommendation, I am sure, can be made solely on the basis of objective operating statistics without regard to the public-private ownership issue.

"WE *do believe that it is far better to have a free, private enterprise economy with periodic periods of moderate but temporary unemployment than a totalitarian, rigidly controlled economy without unemployment.*"

—EDITORIAL STATEMENT,
The Journal of Commerce.



The Use of Economic Leverage to Eclipse Private Power

The emergence of the government as a force in the manufacture and sale of electric power has been an evolutionary process. In the beginning the government sold only the rights, then the power from Federal projects. More recently the government has gone into distribution of power and supplementing its own hydro with steam plants. This article shows how the principle of "maximum advantage" eventually will result in complete nationalization of electric power.

By JOHN D. GARWOOD*

THE principle of "maximum advantage" is one of long standing and good repute among academicians and dilettantes of the social sciences. From an academic viewpoint its lineage indicates progenitors who were highly regarded economists. The idea of "maximum advantage" is closely related to that time-honored economic principle called marginal utility, which was enunciated initially in a formalized manner by nineteenth century economists in England, Germany, and France.

Briefly, the principle of marginal utility refers to the satisfaction obtained by the individual or the group through the acquisition of one more unit of a good or service. It is a customary assumption in economic analysis to conclude that the more we have of any good or service, the less we tend to value additional units of that good or service. Thus, a man with forty suits of clothes, it is believed, will attach a smaller degree of significance to one less or one more suit than will a man with only two suits of clothes.

It is evident that, for the most part, any measure of satisfaction must be in psychic terms which do not lend themselves to concrete units of measurement. The economist's tendency to dress up his economics in esoteric language and deal with abstruse lines of thought have not endeared him to those who seek in economics practical solutions.

THE principle of "maximum advantage" is a derivative of the

*For personal note, see "Pages with the Editors."

marginal utility concept. It advises courses of action; it balances alternatives by comparing the satisfactions which will conceivably accrue in adoption of any particular alternative. For example, units of government in making public expenditures customarily attempt to estimate benefits which will result from one public expenditure as compared to another public expenditure. In addition, the unit of government must consider benefits arising from private expenditure of the funds rather than governmental expenditure; *i.e.*, it being presumed that government spending may result in a lessened spending by the citizen or financial institution bearing the tax.

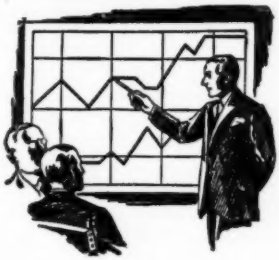
As a government expenditure for a service or good is increased, it is thought that the marginal utility of each additional increment of the service declines. Any governmental function is subject to the law of diminishing utility. At the same time, as the marginal utility of successive increments of a governmentally produced product diminishes, the marginal value to the taxpayers of the increasing revenues necessitated by the greater expenditure increases.

The principle of maximum advantage in economics has many other applications outside the field of public finance. It is utilized by government agencies in the erection and maintenance of Federal power and water projects. The end product of its strict application in this area is the point which is being labored in this article. It is the viewpoint of the writer that continued stringent application of this widely used principle in the field of power projects will inevitably result in complete governmental ownership in the entire field of electric power. The question of the development of power at Niagara did not spring forth full bloom over night. Rather, it is a culmination of a process of applying the principle of "maximum advantage" in numerous developmental decisions over the past two decades. The *raison d'etre* of governmental decision on this particular question has tripped a pyrostat in a number of different quarters.

From *private to public.* The New Deal program, which initiated operations in 1933 under the leadership of President Roosevelt, undertook to develop the enormously large unused power resources of the country. Only those who lived through those early years in the thirties can comprehend the magnitude of the amount of unemployment of men and material in those years. Thus, originally the government program in resource development had as its primary purpose that of unemployment relief and then that of recovery and government implementation of private investment.

It is likely too that the projects afforded a bold experiment in regional planning on a previously unheard of scale in this country. Projects were not long in starting on the Tennessee, Colorado, and Columbia rivers. Space does not permit a detailed elaboration on any one of these projects. It is the intent of the writer, however, to point out a common denominator in each of these developments and a factor which has been inherent in every succeeding resource development.

The rationale of every government expenditure is a postulation that the



Roadblocks for Private Investment

"GOVERNMENTAL success in the manufacture of power, construction of transmission lines, and in the marketing of power is not an inducement for the acceleration of private power investment in regions where these projects are located. Thus, since World War II and the postwar period of increased business activity, there have been new demands made for the generating of electric power. Nevertheless, in states where public power projects have been located, private capital has been loath to invest and compete with firmly established government installations."

community's welfare will be maximized if the expenditure is made; *i.e.*, the principle of "maximum advantage" dictates it. In the fore part of the thirties when state and local relief measures broke down, these units of government sought aid from the Federal government.

THE Federal government had to make a decision as to whether to grant aid or not grant aid. The decision to grant aid then gave rise to another situation where alternatives had to be weighed and chosen; *i.e.*, how should that aid be given.

It was the considered opinion of the Roosevelt administration that this Federal aid could best be given in the form of the development of our water-power resources. It was decided that the country's water should be developed for purposes of irrigation, reclamation, and flood control. Illustrative of this early development is the TVA. Under the Tennessee Valley Act of 1933 the primary purposes were stated as those of controlling floods and improving navigation. These stated objectives were stressed to insure the constitutionality of the whole project. Other specific objectives noted included those of forest control, elimination of marginal lands, and development and maintenance of a more diversified form of economy. The possibility of the manufacture of power by the project was minimized by those who planned it.

Once the decision to establish a reclamation project such as that on the Columbia or Colorado river is made it seems clear that the requirements for the generation of electric

power are now at hand. Water plus dam results in falling water which in turn can be used to rotate turbines. Thus, the question is posed, "Shall the project be one where power is produced?"

THE application of the maximum advantage principle leads to affirmative answers, as it can be seen that the power revenues can be applied on the cost of the project, thus reducing government expenditures which otherwise must be paid for by taxing or borrowing. Reasonable and prudent men conclude that the government should minimize costs in the area and this can be accomplished by production of salable power. The decision is made by weighing two immediate courses of action. These courses of action are: to produce and hence to sell power, or not produce.

Once the decision to create power has been made, then another problem with alternatives arises. What market is going to be serviced? In many instances the generating facilities may be located at some distance from sizable markets. Grand Coulee dam, for example, is 75 miles northwest of Spokane, Hoover or Boulder dam is several hundred miles distant from a market of any consequence. The question of transmission lines then must be considered. To build or not to build, that is the question. If the lines are not constructed by the government, it seems likely that buyers who build their own lines to the dams will be in a strong position for dictating the price of electricity. Government construction of lines will improve the government's position in bargaining as to the price of the power.

Consequently, in weighing a course of action, in the past it has been considered feasible and economical from the point of view of the government to build lines. Once the lines are constructed and power generated, then economical operation of the power part of the project calls for maximum use of the generation facilities and transmission lines. Hence, in application of the maximum advantage principle, large markets are sought and exploited. Obviously, municipal utilities constitute a market made to order. The larger the city with municipally owned public utilities, the larger the market. In the region of the Tennessee valley these cities included Memphis, Nashville, Chattanooga, and Knoxville. These cities succumbed to the inducement of publicly owned plants.

Municipal ownership can be encouraged in a number of ways. Financial aid in devious ways, technical advice on particular problems, friendly personal contacts, etc., have been used with striking results in the past.

GOVERNMENTAL success in the manufacture of power, construction of transmission lines, and in the marketing of power is not an inducement for the acceleration of private power investment in regions where these projects are located. Thus, since World War II and the postwar period of increased business activity, there have been new demands made for the generating of electric power. Nevertheless, in states where public power projects have been located, private capital has been loath to invest and compete with firmly established government installations.

In 1935 the generating capacity of publicly owned plants was approximately 2,616,000 kilowatts. In 1952 this figure has grown to approximately 18,100,000 kilowatts. This is an increase in capacity of about seven times. If there is an increased demand for power facilities coupled with reluctance of private investment, the other alternative is government investment. This situation has existed in progressively more communities since World War II.

In addition, many privately owned utility companies have found sale of their properties to the government more or less a foregone conclusion with the loss of certain urban markets and competition of publicly owned transmission lines.

Generation of power from falling water is sometimes irregular due to fluctuations in the flow of the water in the stream. The solution to this irregularity of the water fall is to acquire or build steam plants which can be utilized to assure a constant rate of generation of power. Application of the principle of "maximum advantage" to this situation would seem to indicate that the public weal would be maximized with regular dependable generating facilities. Hence, a decision will be made for governmental acquisition or construction of such facilities.

Lastly, it will be noted that steam generation facilities can be used in optimum fashion by complete interconnection of all facilities. In choosing a course of action—*i.e.*, to connect all facilities or not to connect—optimum utilization of facilities is sought. This leads to action in which a power grid evolves, where plants are joined with plants and markets with markets.

Conclusion. The emergence of the government as a force in the manufacture and sale of electric power has been an evolutionary process. In the construction of the Boulder Canyon project the Federal government was so concerned lest it invade the domain of private enterprise that the project did not construct transmission lines and government-produced power was not sold. Rather, the "rights to the falling water" were sold in lieu of the power itself. As noted, the development projects of the thirties did not initially emphasize manufacture of power. Yet two decades later we see the government proposing to spend $400,000,000 of public funds to manufacture power at Niagara and sell it in competition with private power. With TVA and Bonneville, power development was alleged to be secondary in intent to irrigation and flood control. At Niagara only power development is being considered.

Philosophically speaking, Newtonian concepts tell us that the whole is equal to the sum of its parts. As applied here, a summation of a number of decisions based on the principles of "maximum advantage" should give us an end product most conducive to the public welfare.

Unfortunately, the whole is not always equal to the sum of its parts; in many instances, it may be different from the sum of its parts. The *causa mortis* of private power at the present time is a case in point.

State Legislatures' Action On Utility Laws

This is a timely review of the 1952 actions of state legislatures on proposed laws of interest to utilities. It is a roundup of successful and unsuccessful legislative proposals which were before state legislatures during this year when only a few of these bodies were in session.

By BETHUNE JONES*

Extension of the uptrend in public utility rates will continue to be accompanied by correspondingly intensified pressure for broader, more stringent, and more efficient regulation of utilities through state legislative and administrative action, a survey of current and prospective developments in state capitals throughout the country reveals.

One of the significant enactments emanating from the comparatively few state legislatures which convened in regular session this year is a new Kentucky law preventing public utilities from putting proposed rate increases into effect immediately after application and posting of bond.

Under the new Kentucky act, which was drafted by the legal staff of the state public service commission and approved by the Kentucky Municipal League, a utility cannot put a proposed rate increase into effect for at least five months after application unless the public service commission approves the increase sooner. If the commission reaches no decision within five months, the rates then can become effective, subject to subsequent reduction or cancellation if the commission so orders.

The new Kentucky statute abolishes a former requirement that a bond be posted by the utility to guarantee that refunds will be paid to consumers if the rates are disallowed. The measure stipulates, however, that any consumer may sue to force the refund due him and recover also his court costs and counsel fees.

Other provisions of the new Kentucky act enable the commission to in-

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crease from $130,000 to $250,000 a year its assessment against utility companies to finance the commission's work.

A NEW Michigan law requires that all cities be given notices of proposed public utility rate increases and prohibits the state public service commission from acting on rate increase petitions until receiving a report from its technical staff.

Two bills to broaden state control over public utilities were rejected by the Rhode Island legislature, despite backing from Governor Roberts. One would have compelled utilities to get approval from the state public utilities administrator before undertaking large-scale expansion programs, the cost of which would figure in rates charged customers.

The other defeated Rhode Island bill would have required utilities to pay for state-initiated rate investigations—and out of their own pockets if their rate requests were found "unreasonable." If the rates were found justified, the utilities would have been permitted to figure the cost of the investigation as part of their costs of doing business, and pass it along to consumers.

Massachusetts lawmakers rejected a bill to disallow the hearing of new evidence in appeals to the courts from decisions of the state department of public utilities. The proposal, designed to curb the state supreme judicial court's power to reverse decisions of the department of public utilities in rate cases, has been unsuccessfully recommended for the last three years by Governor Dever. Advocates of the legislation contend that utility companies now are able to obtain reversals of the department's decisions by withholding facts and submitting them to the court.

A bill unsuccessfully introduced in New York would have empowered the state legislature to review and reject telephone, gas, and electric rate increases granted by the state public service commission.

LEGISLATIVE proposals aimed at providing a greater measure of consumer representation in state regulation of utilities made no progress this year, but will be widely proposed next year when the legislatures of 44 states convene in regular session. Such a bill, empowering the attorney general to hire special counsel and experts to represent the public in rate proceedings before the state public utilities commission, was enacted last year in New Jersey and similar proposals were unsuccessfully presented in several other states.

Proposals for revision of membership of state public utility regulatory agencies to provide for special representation of area or other interests, and to provide for changed methods of their selection from elective to appointive or vice versa, also will continue to appear in future legislative sessions, although no affirmative action was taken on such measures this year.

Also look for continuation of the slow but steady trend of recent years toward higher pay for members of state utility regulatory agencies in line with their broadened and increased duties. This trend was reflected this year in a Louisiana bill increasing the salaries of the three members of the

state public service commission from $6,000 to $8,500.

An interim legislative commission in Illinois is currently studying the need for revision of the state's public utility laws, with recommendations to be submitted to the 1953 legislature.

COLORADO's electorate will vote in November on a proposed state constitutional amendment to bring all privately owned utilities operating in the state under the jurisdiction of the state public utilities commission. This would eliminate past jurisdictional controversy between municipalities and the state commission over the control of utility rates. The amendment would exempt co-operatives of the REA type and all municipally owned utilities from state regulation.

Enactment of utility regulatory law will be proposed next year in Iowa, where an interim commission is studying the issue. Iowa and Texas now are the only two states in the nation without state utility regulatory agencies. The issue also is expected to come up in the 1953 Texas legislature.

Revision of New Jersey utility regulatory laws is slated for consideration next year or at a special legislative session this fall, at which time efforts may be made to go beyond mere routine procedural changes. Some New Jersey solons advocate elimination of part-time utility commissioners and substitution of a full-time board of persons suited for the job by training and experience.

New Jersey lawmakers earlier this year took a step toward eliminating delays in rate cases and other regulatory matters by enacting a law enabling the state public utilities commission to designate staff members as hearing examiners to conduct "any hearing in any proceeding now or hereafter before the board."

Rejected in New Jersey was a bill to increase commission membership from three to five. The measure had been proposed as a means of expediting and facilitating the increasing work of the agency.

IN an unusual administrative action, Governor McMath last spring directed the Arkansas Public Service Commission to audit the books of private utility companies with a view of eliminating "questionable and political" expenditures from their rate bases. Saying it lacked the staff to make a full-scale audit, the commission instead sent the utilities questionnaires. Results of the inquiry had not been fully announced at this writing.

Another significant development from Arkansas was a state supreme court ruling early this year in a Southwestern Bell Telephone Company rate case that "no public utility has a vested right to any particular method of valuation." The company had contended that the state commission

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should have determined the "real value" of its properties in Arkansas, rather than to have used the "cost less depreciation" basis.

In an administrative development welcomed by utility companies, the New York Public Service Commission recently announced a new policy under which pensions paid to retired employees of companies coming under its jurisdiction may be added to other operating expenses as a base for rates.

IN addition to legislative and administrative action of general concern to all regulated utilities, there also have been numerous current-year developments affecting various selective types or fields of utility interest, some of the more significant of which are summarized below:

Natural Gas: A new law enacted in New York gives the state public service commission jurisdiction over interstate natural gas pipelines going through the state so far as their construction affects public safety.

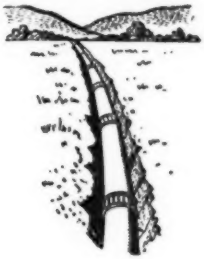
Five other pipeline regulatory bills passed by the New York legislature were vetoed by Governor Dewey after the state commission said they would constitute an unconstitutional restriction on interstate commerce and "might seriously impede the proper development of the natural gas industry in the northeastern part of the country."

The commission added, however, that legislative passage of the New York bills had "nevertheless served a valuable purpose by giving notice to the out-of-state companies concerned that the legislature of the state looks with disapproval upon their recent attempts to interpret the certificate of convenience and necessity which they received from the Federal Power Commission as a license to disregard the zoning regulations of New York state communities and the rights of New York state residents. Unless due regard is given this manifestation of public feeling these bills, with certain modifications, should be reconsidered next year."

STANDARDS for the installation, operation, and maintenance of natural gas pipelines were put into effect early this year by the Connecticut Public Utilities Commission. Said to be the first regulations promulgated by any state for the control of natural gas, the standards were drafted by commission engineers following public hearings and consultation with experts in all phases of natural gas supply. The commission was given authority to control natural gas by the 1951 state legislature.

Connecticut's supreme court of errors last spring upheld the constitutionality of a 1950 state law giving natural gas pipeline companies the right of eminent domain. In a subsequent ruling the Connecticut court authorized the Northeastern Gas Transmission Company to proceed with the laying of its pipeline across Fairfield county, with arguments about damages to be heard later.

New Jersey lawmakers enacted a bill placing natural gas pipelines under the jurisdiction, supervision, and regulation of the state public utilities commission. The measure permits the commission, after notice and public hearing, to promulgate reasonable rules and regulations for the safe construction, operation, and maintenance



Pipeline Safety Standards

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of natural gas pipelines, provided such rules are not inconsistent with provisions of the Federal Natural Gas Act.

A BILL designed to allow farmers fair damages for land torn up by the laying of gas pipelines was enacted in Kentucky. It allows the farmers to claim the difference in the value of their land before and after a pipeline was laid across their land. Farmers in the pipeline areas had complained the topsoil was thrown into the open ditches to provide cushioning for the pipe, with the result that unproductive soil was left on top of their land.

Massachusetts lawmakers approved a bill providing strict penalties for the failure of natural gas pipeline companies to restore land under which they have laid pipes to its original condition.

Michigan's legislature enacted a bill authorizing the state public service commission to order natural gas distributors to make rebates to consumers in the event the Federal Power Commission reduced the rate charged such distributors by pipeline companies.

New York state's public service commission announced it has increased by 50 per cent the number of its gas meter testers in response to consumers' complaints that natural gas has caused meters to run fast. Companies were warned they must co-operate in correcting the problem or face penalties.

A NEBRASKA state legislative interim study committee decided that no new taxes or regulatory laws are required at this time for the state's oil and natural gas industry. The committee will report to the 1953 Nebraska legislature. It has been asked

to recommend enactment of a law to allow underground storage of natural gas.

In a move it described as bringing Illinois residents closer to the day when they can get all the gas they want for space heating and other uses, the Illinois Commerce Commission recently approved a plan to store 150 billion cubic feet of natural gas in a rock dome 1,500 feet underground in Kankakee county.

An Illinois commission spokesman pointed out, however, that the plan still had to pass Federal Power Commission scrutiny. He said the Federal agency had to decide if it has jurisdiction in the matter and whether it would approve or reject it. The plan is sponsored by the Natural Gas Storage Company of Illinois, owned by the Natural Gas Pipeline Company and the Texas-Illinois Natural Gas Pipeline Company.

LIQUEFIED *Petroleum Gas:* Developments in several states this year extended the trend toward new and broadened regulation of liquefied petroleum gas.

A bill requiring state licensing of dealers in liquefied petroleum gas was enacted in South Carolina.

New Jersey lawmakers enacted a bill regulating the sale of liquefied petroleum gas by avoirdupois net weight, liquid measure, or cubic feet. The state division of weights and measures has general supervision and administration of the new statute, with violations punishable by fines ranging from $25 to $200.

Alabama's newly formed State Petroleum Gas Commission, created by the 1951 legislature, began operating this year. Functioning under the state public service commission, the agency is empowered to license all dealers, distributors, and repairmen working with liquefied petroleum gas.

An emergency change in regulations governing new installations for the storage of liquefied petroleum gases in Illinois was ordered into effect early this year by the state public safety director. It requires installers to submit for state approval detailed drawings of all stationary storage tanks with the exception of one type. The exception is for an approved container or bottle such as is frequently used at individual residences. Specifications for these are controlled by the Interstate Commerce Commission, which supervises their production.

PUBLIC *Ownership:* That public ownership of utilities will be raised as an issue in the Illinois legislature next year was indicated when the Illinois Power Association recently adopted a resolution urging the enactment of legislation to permit localities to pool their resources to form public utility districts for the financing and operation of publicly owned utilities.

Representing 67 cities in the state, the Illinois group also urged enactment of legislation to require a referendum on any sale or leasing of a publicly owned utility to a private firm.

It also called for legislation to require "private corporations to cease operations in locations where there is competition with a municipal utility, when and if the municipally owned utility has the capacity to handle the entire load of the city." Opposition was expressed by the group to any leg-

islation that would place publicly owned utilities under jurisdiction of the state commerce commission.

Rhode Island lawmakers rejected a bill which would have permitted any municipality, following a referendum, to build, purchase, or lease an electric power plant, if it deems private power rates discriminatory.

Unsuccessfully introduced in the Massachusetts legislature was a bill designed to facilitate the acquisition of public utility plants by municipalities. Spokesmen for private utilities said there already is ample law on the books in Massachusetts for that purpose.

A BILL preventing second-class cities from selling municipally owned electric or water plants unless a majority of voters approve was enacted in Kentucky. The new act also reduces from two-thirds to a majority the number of voters who must approve before city-owned electric or water plants can be sold or leased by third-, fourth-, fifth-, and sixth-class cities. Another measure enacted in Kentucky allows water districts to operate natural gas systems.

(Note: Developments relating to public ownership of transit facilities are summarized separately under that heading.)

TELEPHONE: Colorado's Supreme Court ruled that the state public utility commission has sole authority to regulate intrastate telephone rates and that Denver and other home-rule cities cannot set such rates within their boundaries.

The Colorado decision made it clear that the new ruling applied only to telephone rates and that questions concerning control of other types of utility rates would have to be determined separately. Need for litigation over such issues would be eliminated, however, by adoption at the November election of a proposed state constitutional amendment clearly giving the state commission complete jurisdiction over all privately operated utilities in the state.

Virginia's legislature rejected bills which would have limited the net income of telephone utilities to 5 per cent of their investment; provided that "net original cost" shall be the basis of determining the value of telephone property for rate-making purposes; limited telephone utilities to paying no more than 3 per cent interest on any issuance of stock or other long-term indebtedness; and required a state corporation commission hearing for any community of more than eight persons requesting telephones.

¶ "UNSUCCESSFULLY *introduced in the Michigan legislature was a bill which would have allowed subscribers of any independent telephone company to demand a merger of their local exchange with the Michigan Bell Telephone system. The measure would have authorized the state public service commission to compel such a merger if it determined the action was 'in the interest of the public convenience and necessity.'*"

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Mississippi lawmakers turned down a bill to permit telephone co-operatives to operate outside the jurisdiction of the state public service commission and to expand their operations to any point in the state, provided they did not duplicate existing telephone lines, facilities, or systems providing reasonably adequate services. Co-operatives functioning under the proposed act would have been given the power of eminent domain and would have been exempted from all taxes, other than payment of an annual $10 fee to the secretary of state.

Georgia amended its rural telephone act to change the definition of a rural community from 1,000 population to 1,500. Another bill enacted in Georgia placed rural telephone co-operatives under the state Workmen's Compensation Act.

TRANSIT: Preliminary to initiation of further legal steps to carry out a proposed plan for reorganizing the bankrupt Long Island Railroad under public ownership, the Long Island Transit Authority, in accordance with recently enacted legislation broadening its powers, has certified to Governor Dewey and other New York state and local officials that the public interest requires that the authority be empowered to acquire all or part of the commuter line.

Without giving any details of the plan, the authority announced in its certificate that it was formulating a plan of reorganization and that it would file the proposal with the Interstate Commerce Commission for its approval "with all possible speed."

Similar actions this year by the New York and New Jersey legislatures created temporary study commissions to develop plans for improvement and co-ordination of rapid transit facilities in the north Jersey-New York metropolitan area. The commissions are expected to study suggestions that another railroad tunnel be built under the Hudson river for use by railroads now lacking such facilities.

MASSACHUSETTS lawmakers rejected a proposal for repeal of a 1918 statute allowing street railway companies to provide service at cost plus a reasonable return on valuation set by the state department of public utilities. A special interim commission will study the "cost plus" statute.

Other action by the Massachusetts legislature included passage of a bill authorizing the Boston Metropolitan Transit Authority to borrow an additional $5,000,000 for equipment and to start a $3,000,000 extension of service to Revere. Also enacted was a bill establishing an MTA advisory council composed of mayors and selectmen of the 14 communities served by the authority.

Massachusetts legislation that would have permitted financially ill bus companies to boost fares without awaiting

a final decision on the new rate schedules by the state department of public utilities was unsuccessfully proposed by a special legislative interim commission which studied the problems confronting transit companies.

ARIZONA lawmakers enacted a bill amending the state law governing issuance of municipal revenue bonds to include "common carriers of passengers" under utility concerns that can be purchased by municipalities with revenue bonds. The law previously did not permit municipalities to issue revenue bonds for that purpose. Although general in application, the new measure had been sought by the city of Phoenix.

KENTUCKY'S court of appeals held in a recent precedent-setting decision that the city of Cumberland could purchase and operate a 50-mile bus system serving five communities between Whitesburg and Harlan. It ruled that the city could buy the Cumberland Coach Lines under the same state laws that permit cities to finance various public works through revenue bonds.

A case involving the question of whether the South Dakota Public Utilities Commission has authority to fix fares charged by bus companies operating within cities has been appealed to the state supreme court. The commission held in a split decision that it lacked such authority.

"LIEUTENANT *General Leslie Groves put a finger on a sore spot in our present government when he noted its tendency to conceal its errors. Yalta and Potsdam and the suppression of the Wedemeyer report were cited as instances; but also might be mentioned the RFC scandals and the apparent widespread corruption in the Bureau of Internal Revenue.*

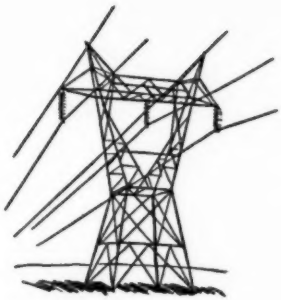
"It is not the dishonesty and the deceit that are the worst features of these affairs, it is the effort made to keep the public from learning about them. Even Congress has been balked, in some instances, by executive orders refusing it access to information.

"One of the most remarkable cases came when the chairman of the Tennessee Valley Authority was not permitted to examine the TVA books to prove his charge that TVA was selling power for less than cost. Because he could not see the books, the President removed him for making charges without proof!

"That some items of information which may involve national security need to be kept from general circulation is no doubt true. But when national security is offered as the excuse for locking everything up, a sound principle becomes an absurdity. How can the people rule unless they know what mistakes government is making as well as what is being done right?

"The only safe way to have the ordinary affairs of government conducted is in the glare of full publicity."

—EDITORIAL STATEMENT,
Los Angeles Times.



Chicago's Electric Theater

Recently, Chicago has been the scene of general celebrations commemorating one hundred years of engineering progress. Large industrial concerns have taken part in drawing public attention to that progress. In the center of the events has been the Museum of Science and Industry. This article describes the electric industry exhibit, which is a striking feature of the museum.

By WILLIAM H. BROMAGE*

The Commonwealth Edison system serves Chicago and northern Illinois, an area of 11,000 square miles. This territory, with its more than 5,500,000 population, can truly be called the heart of the nation because it typifies in its people, in its cultural and educational facilities, and in its industrial establishments, the American way of life.

It is only natural, therefore, that Commonwealth Edison Company and its subsidiary, Public Service Company of Northern Illinois, should take an active interest in one of the nation's outstanding institutions dedicated to bringing to the public of this territory and the rest of the nation the story of scientific and industrial accomplishment to the end that our people may get a newer and a deeper realization and appreciation of our way of living. For this is what the Museum of Science and Industry of Chicago was created to do and is doing with great success today.

The institution's newest exhibit, The Electric Theater, was built and presented to the museum by the Commonwealth Edison and Public Service companies. To explain the purpose of the exhibit it will be desirable first to present something of the history and growth of the museum and the unique place it occupies among the museums of America.

Nearly sixty years ago, all paths led to Chicago, where the World's Columbian Exposition of 1893 was in progress. One of the buildings of that fair, erected to house

*For personal note, see "Pages with the Editors."

the Fine Arts Exhibit, became the physical foundation of the present Museum of Science and Industry. The building was first occupied by the museum in 1933, simultaneously with another exposition that became international in interest — A Century of Progress, or what became more familiarly known as the World's Fair of 1933. The fair lasted a second year and then passed into history.

But in passing it gave a new impetus to the museum which inherited equipment from the fair's Hall of Science. While much of it was not usable, many of the basic science exhibits, rebuilt and modified, remain in the museum. So the Century of Progress was another step in the establishment of the institution we now have.

The museum has reached its present high position largely because of the efforts and ability of Major Lenox R. Lohr, its president, and his capable staff. Major Lohr will be recalled as the manager of the famous Century of Progress, which in the middle of a depression attracted such a tremendous attendance from all parts of the world. The exposition was the first and only fair of its type and magnitude to end up "in the black."

THE museum covers a ground area of 263,000 square feet, or approximately six acres, and has 600,000 square feet of floor space. The exhibits, portraying scientific and industrial progress, many of them in full operation, are arranged by subjects. Each section is set up in sequences, often tracing an idea from its invention through the stage of mass production to its ultimate social contribution.

The purpose is to portray the experimental beginnings and the fully developed processes which fill the needs of our modern civilization. The museum's unique plan of dramatic enlightenment on technical subjects has been developed to the point where laymen, even children, can understand them.

In any such presentation of American invention and accomplishment in the field of science and industry, electricity should, of course, occupy an outstanding place. The museum always has had some electric exhibits, and the Edison and the Public Service have long co-operated with the institution.

Plans for a modern, major exhibit in the field of electricity were begun more than ten years ago but ran into delays due to World War II. The planning was renewed after the war and construction was finally begun early in 1951. Nearly a year was required for construction of The Electric Theater.

THE exhibit is divided into three sections, all of which are air-conditioned. The visitor finds, on approaching the theater, a modified diorama of a modern street-lighting installation. Included in the outer section also is an attractive show window containing electrical displays of timely interest. From there the visitor enters a lobby exhibition hall which contains a three-dimensional display panel showing how a heat pump operates by taking heat away from a portion of a structure and utilizing it to warm water; a rotating stage bearing a modern electric kitchen along with an old-style kitchen of the days before electricity;

The Show Must Go On

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two bicycle-driven electric generators on which the physical exertion in generating a penny's worth of electricity is forcibly brought home to the visitor; two quiz boards testing knowledge of simple facts about electricity and an opinion meter featuring questions and answers about electricity and other subjects.

THEN comes the theater proper. It seats 200 spectators and uses the newest developments in seating arrangements, whereby no member of the audience finds his head directly in back of that of someone else. A 40-minute show is presented as often as seven times a day when the demand is large as on Sundays and holidays and during the spring tour season for schools. Included in the show is a 10-minute color motion picture in sound, entitled "More Power to You," featuring the newest generating station on the Commonwealth Edison system and using animated cartoon narrative to show how electricity is generated.

THE official description of the exhibit by the museum follows:

"A 30-minute presentation demonstrates how radiant energy of all frequencies, generated from commercial 60-cycle alternating current, is utilized for our comfort, convenience, and well-being. Effects involving electric waves, radio, infrared, visible light, ultraviolet, gamma, X-ray, and cosmic rays are dramatically shown and simply explained. There are also several other exhibits on the stage, some amazing, some amusing, but all informative.

"For example, the explanation is made that 'electromagnetic radiation' is a term applied not only to visible light, but to radiant heat, radio and radar signals of all kinds, all of which

are lower in frequency and longer in wave length than visible light. Also that equally invisible ultraviolet, X-rays, gamma rays, and cosmic rays, the latter so important in recent discoveries in connection with so-called 'atomic energy' developments, and all of them of very much higher frequency and shorter wave length than visible light. Demonstrations of applications of the usefulness of these invisible radiations are then shown.

"AMONG other things, the demonstrations in the theater include 'The Levitator,' an arrangement of low-frequency alternating electromagnetic fields, which, by means of their reactions with eddy currents in a metallic dish, hold it suspended, and stably so, in apparent defiance of the law of gravity.

"Showing the heating effects, in nonconducting substances at higher frequencies, some corn while still on the cob is popped by using radio-type frequencies, and using higher frequencies, those of radiant heat, other kernels which are enclosed in a sealed plastic bag can also be popped with equal success.

"In the range of visible light, nature's own type of lamps, as exemplified by the firefly, is explained in terms of chemical luminescence and a demonstration of 'chemical' light produced by such means. Furthermore, the audience learns how greatly man has improved on nature with the 25,000,000-fold cheaper forms of light from modern electrically excited luminescent tubes.

"Going now to the invisible ultraviolet end of the spectrum, there are some striking stage effects, and effects on the appearance of the audience themselves by so-called 'Black Light,' light of very low intensity to the eye but which produces brilliant fluorescent color on many different kinds of substances.

"GOING next to still higher frequencies there is demonstrated a type of modern highly sensitive detectors for X- and gamma rays used in medicine and used also in connection with 'atomic energy' investigations and those dealing with the mysterious cosmic rays. This is a signal device, actuated by a modern form of Geiger counter which responds to the photons or radiant energy packets, carried by all kinds of electromagnetic radiation, as well as to X-, gamma, and cosmic rays.

"The experiments on this short-wave end of the spectrum, being thus completed, the show closes with a demonstration of the smallest and the largest electric lamps in the world."

The Electric Theater exhibit was presented to the museum in December, 1951, by Charles Y. Freeman, chairman of the Edison and Public Service companies. At the presentation ceremony, Mr. Freeman stated that the companies were proud and happy to have their names included in the impressive list of exhibitors in the museum.

"WE believe the museum is a great educational force," said Mr. Freeman. "It reaches a wide and growing cross-section, not only of our community but of our nation.

"To the youngster, the museum is an exciting place full of new experiences and ideas. To the student and

to the teacher it is a valuable addition to classroom work. To the general public, it is an adventure in adult education. And to us who exhibit, it is the opportunity to tell the story of our contribution to the American way of life. In a sense, it is a display of the accomplishments of the nation's scientists, engineers, and businessmen. It typifies our free enterprise system.

"This country of ours, above all others, knows the material benefits of such teamwork. We enjoy the highest standard of living on earth. We have a degree of freedom unmatched in any other country in the world. And this abundance; this freedom; is not an accident—it is the product of ingenuity, determination, and hard work."

THE popularity and appeal of the museum is attested by the 1951 attendance of more than 1,850,000 visitors. And that The Electric Theater is attracting a gratifying number is evidenced by the fact that in the first six months it has been open there have been 572 performances before audiences totaling over 42,000.

Overregulated Transit

"DOES *the chairman of New York city's Board of Transportation believe that the 10-cent carfare, which created a $24,773,883 operating deficit in the fiscal year just passed, should be raised? Colonel Sidney H. Bingham, whose lively mind prompts him to toss off opinions on almost everything else under the sun, remains tactfully silent on the fare question while waiting for the mayor's lead. But some remarks made by the chairman . . . in a Kansas City speech are suggestive.*

"Mass transportation, including railroads, has been hit harder by inflation than has industry in general because it is a regulated industry, Colonel Bingham pointed out. He went on to say that 'where private industry generally has raised prices to meet increasing costs, city transit systems and railroads have not been permitted to do so as promptly or to the same degree.' Mass transportation systems are now in a highly competitive business, because of the private automobile; hence they 'should be left to the normal price regulation of a free market to a much greater extent.' Colonel Bingham believes that our mass transportation systems 'require assistance now,' and that if the streets of cities were freed more drastically of private cars—for movement of people and goods from one place to another instead of for use as outdoor parking garages—and if transit were less rigidly regulated to improve revenues 'we would find money for those technical improvements that would make mass transit more efficient and attractive.'

"This sounds to us as though Colonel Bingham is advising a higher fare in New York city. If so it is news, as well as advice worth listening to."

—EDITORIAL STATEMENT,
The New York Times.

Washington and the Utilities

Comptroller Rulings

A REGULATION by the Comptroller General, issued last July, may result in more widespread effort by the public utilities branch of the Public Buildings Service (General Services Administration) to get public utilities to consolidate their contracts with Federal customers. The General Accounting Office at that time issued a general regulation to the effect that a reduction in the number of separate contracts by multiple Federal agencies billed for services and supplies from the same source should be reduced where possible.

This regulation, of course, applied to all forms of services and supplies used by the various Federal bureaus (such as post offices, military installations, etc.) throughout the country. But just how extensively it would apply to utility services is not yet definitely known. The public utilities branch of the Public Buildings Service has for some time been working on contract consolidations on a voluntary basis. And it has had a certain amount of success, notably in New York city where several hundred contracts for service to Federal installations have been consolidated, resulting in a simplification of paper work and some over-all rate adjustments. But a good many cities are not yet covered by such "blanket" type arrangements.

In another field of public spending, two recent rulings from the General Accounting Office have scotched administration attempts to get around congressional curbs on Federal project promotion and spending. First, Navy Secretary Dan Kimball had inquired regarding the use of Navy Department funds to prosecute the government's case against residents of Fallbrook, California, in the Santa Margarita controversy over water rights. U. S. Comptroller General Warren cleared up a dispute which has raged ever since Congress put a special rider in a Justice Department appropriation bill denying funds for such purpose.

WARREN wrote Kimball that "The evident purpose of Congress in approving the provision in question seems so clear that I could not approve procedural or mechanical devices designed to overcome a technicality in order to circumvent that purpose." Attorney General McGranery, after hearing about Warren's letter, said "The case is over."

The Comptroller General also stepped on the fingers of government agencies which commit more money than has been appropriated by Congress for projects, and then return to Congress for supplemental funds to pay contractors. The Interior Department seems to have been the worst offender in this respect. The General Accounting Office has now ruled such overcommitments illegal.

Warren takes the flat position that his office will not approve payments on contracts in excess of authorizations approved by Congress. As a result, Interior has had to cancel plans to go ahead with its Eklutna hydroelectric plant in Alaska, having already overcommitted what Congress authorized for this project.

Power As Political Issue—Waits For Truman

EVIDENTLY the current political campaign, warm as it has become on other issues, foreign and domestic, will

not be featuring that long-time favorite, the "power issue," until President Truman gets into the act with his second whistle stop tour, beginning October 1st. On that date, which marks the approximate halfway point of the campaign, President Truman is due to dedicate the Hungry Horse dam at Kalispell, Montana. Political observers who recall the late President Roosevelt's fondness for using these repeated dedications as a sounding board to belabor the power industry, expect that Truman will pull no punches.

BUT the major performers, General Eisenhower and Governor Stevenson, apparently have been too busy talking about other things to give this issue very much attention. In his speech in Omaha on September 18th, General Eisenhower said some nice things about the Rural Electrification Administration and farm co-operatives generally. But even his fulsome praise was qualified by a hint that the Democratic administration has been using REA as an excuse for tightening its grip on the farm economy and the farmers' affairs. He stated:

> The Republican party believes in farmer co-operatives. Co-operation is the means by which free men solve problems or tackle jobs too big for the individual. Farmer co-operatives are an essential device for maintaining the independent family farm. We will not let them be endangered. We shall aid farmers to strengthen their own institutions.
>
> The Republican party favors a sound program of rural electrification and rural telephone service. The Republican 80th Congress made available for REA loans $800,000,000 — the largest amount ever made available by any Congress. We regard REA as an investment in agriculture's future.
>
> But the co-operatives in this field should not be satellites of the Federal government and we should make certain that as loans are repaid by each local co-operative, the sticky hands of Federal bureaucrats are removed.

The final sentence would seem to indicate that, if elected, General Eisenhower would give some critical study to claims occasionally heard in some quarters that the Federal REA is more interested in keeping the co-ops in debt by making bigger and bigger loans than in seeing these loans paid off and the co-ops permanently launched as independent business enterprises.

ON the other side of the political picture, public power enthusiasts are not enthusiastic about the lukewarm endorsement being given to the Fair Deal power program by Governon Stevenson, the Democratic presidential candidate. In marked contrast to the utility baiting campaign speeches of President Truman, Stevenson took an independent line in his speech early in September at Seattle, Washington. He warned the residents of the Pacific Northwest that "engineering feasibility" and local interests are not enough to justify continued and unlimited government investment in local projects.

Approving and endorsing the progress made to date on Federal projects, Stevenson pointed out that future Federal commitments must meet: (1) the "harder test of comparison" with proposals for other programs benefiting other areas; (2) the test of proper timing in the public interest. Senator Knowland (Republican, California) expressed "gratification" that the governor had "approved the Republican-inaugurated and Republican-supported reclamation and public power program."

Stevenson's approval of Federal power policy was mixed with precautionary suggestions. He pointed out that "works like Grand Coulee and Bonneville were beyond the capacity of private enterprise to undertake." He added the implication that government activity should be limited to situations "where private enterprise is unable or unwilling to develop our resources."

THE governor spoke out in favor of "better administrative arrangements within the Federal government," plus

improved participation by state, local, and private groups which would make for a better and sounder system of dealing with natural resources. He expressed the belief "that the job of widely using the resources with which nature endowed the United States is very largely a job for private action."

An "eagle-eyed and tightfisted" policy of Federal spending was called for, marking a note of moderation and restraint which Stevenson repeated throughout his address. His statement that "there will always be groups who try to turn our common inheritance to their private profit" was not definitely anti-utility enough to suit the public power zealots who have been waiting for Stevenson to open up on this issue. The impression grows that the Democratic candidate is trying to preserve his attitude of independence from any special interest group, including the professional public power project promoters.

Gas Cases Swamp FPC

WHOLESALE natural gas rate increase applications totaling approximately $140,312,000 annually, filed by 25 companies, were acted upon by the Federal Power Commission during the year ended June 30, 1952, Chairman Thomas C. Buchanan announced last month.

In addition, it was reported, gas rate increase applications totaling $19,200,000 were filed during June but had not been acted upon by the commission as of June 30, 1952, making a total of $159,512,000 in rate increase applications filed up to June 30, 1952. The chairman stated further that since June 30, 1952, requests for gas rate increases totaling $54,140,000 have been filed.

The total increases filed during the year ended June 30th represent a sixfold increase over the $22,300,000 in rate increase applications filed in the previous year, and are more than 200 times greater than the $645,000 in increases filed in 1949.

Chairman Buchanan reported that out of the $140,312,000 total for the fiscal year 1952, the commission suspended $139,032,000 in increases, and accepted the remaining $1,280,000. The commission disallowed $22,117,000 of the suspended filings, allowed $15,295,000 to become effective, and permitted the companies to withdraw $7,103,000. Of the remaining $94,517,000, a total of $36,001,000 was in effect under bond at the end of the fiscal year awaiting determination by the commission of the amounts to be allowed and $58,516,000 were still under suspension.

INCLUDING actions on carry-overs from preceding years, the commission completed proceedings with respect to more than $65,000,000 in requested increases during the 12-month period. This includes $27,995,000 allowed to become effective, $30,717,000 disallowed, and $8,306,000 withdrawn. However, including the carry-overs, there was still a total backlog of nearly $104,000,000 pending on June 30, 1952. In addition, rate increase applications totaling $72,852,000 were either suspended after June 30, 1952, or are awaiting commission action.

Buchanan deplored the lack of help and said the commission usually cannot take final action on an application within five months when increases may automatically go into effect under bond.

Co-ops and Politics

AT the grass-roots level, REA co-ops are being urged to get into the act as far as the political campaign is concerned by the National Rural Electric Co-operative Association. It is asking members to support Congressmen who supported REA appropriations in the coming elections, and to analyze the voting records of Congressmen generally.

This activity became plain at a recent regional meeting of 400 co-operatives from a number of middle western states at Madison, Wisconsin.

Several resolutions designed to set the pattern for political activity on the part of co-operatives were adopted.

Exchange Calls And Gossip

REA Head Warns against Monopoly Trends

MONOPOLY, with all its attendant evils, will develop if REA co-operatives are not permitted to put in their own facilities when installation of such facilities will give them cheaper and better service, Rural Electrification Administrator Claude Wickard declared. Wickard was speaking before the Iowa Statewide Meeting in Des Moines on September 17th. He told his audience the attitude that the utility business by its very nature is a monopoly is one which no organization, private, public, or co-operative, can afford to take, "not only because it is unfair to the consumers but because sooner or later it will lead to trouble."

"Most telephone companies," Wickard said, "large and small, seemed to have arrived at a place where they were totally indifferent as to whether rural people got telephone service, or as to the quality of service if they had any kind of service. This situation has been going on for many years. It is startling to people to know that less farms have telephones, according to the 1950 census, than was shown to be true by the 1920 census."

Wickard said much of the equipment now in use is obsolete and unsatisfactory "because the existing companies have been either unable or unwilling to give good telephone service." He noted that in Iowa the percentage of farms having service is much higher than in the nation as a whole. "Interest in the telephone program . . . is picking up all the time," he said, "and I am sure it will further increase when people find out just how satisfactory modern telephone service can be."

THE results are bound to be good, said Wickard, now that competition has entered the field where monopoly existed. "It can even be good for the existing telephone companies if they will take advantage of the opportunities offered by the government for long-term credit," he stated. "A real area coverage telephone program for rural America means a lot to the Bell company and to other large companies," the REA chief continued. "It means something to every user of telephone service, because the telephone service increases in value as the number of persons who can be reached by telephone increases."

Wickard denied that REA is trying to create more competition for the telephone companies. He said it would be far preferable if the existing telephone companies would take advantage of the long-term credit available to them to extend and improve their service to rural people. However, if the existing companies are unwilling to undertake to carry out this responsibility, "then we must not have a situation which denies others, including farmers themselves, such an opportunity. If we deny anyone else the opportunity, then we have true monopoly with all its attendant evils in the rural telephone field," he said.

The REA Administrator criticized the feeling among co-operatives, as well as private companies, that monopoly offers security of position. "Sometimes co-operatives tend to feel that they have a certain amount of security inherent in co-operatives. They can point to the fact that they are doing business at cost. They

may feel that they have a loyalty of membership. They may even feel that their objectives and their principles are so far beyond criticism or reproach that they need not worry too much about the future. Co-operatives are too often victims of complacency—complacency upon the part of their officials and complacency upon the part of their members; the organization and the people in it are just incapable of doing anything wrong or making mistakes of any kind. Yes, co-operatives in the utility business can become just as monopolistic as any kind of an organization. This is especially true when they have the attitude that there is or can be no effective competition. Such an attitude is not only an indication of a failure of trust, it is an indication that seeds are being sown which will suddenly bring disservice, dissatisfaction, and dissent."

WICKARD emphasized that "we in the REA program . . . must be constantly aware of our responsibilities and our opportunities to improve the service; to make it better; to make it more efficient; to make it more economical; to make it more satisfying to our members and to make it of more benefit to the communities in which we live. That is our responsibility and it is a real challenge to our ingenuity and ability." He called on the co-operatives to draw up long-term objectives, policies, and procedures. "When a co-operative board has established its objectives and developed written policy in line with these objectives, and when procedures have been written to carry out these objectives and policies, it has, in my estimation, taken a long step forward to avoid monopolistic tendencies and also provide insurance that the REA program will be, as it can and should, a dynamic demonstration of democracy in action."

Postal Service and Bell System Compared

THE suggestion that those business-type enterprises which the government has shown to have handled with indifferent success be turned over to tax-paying private ownership is being heard more and more frequently. In its bulletin of September 18th, the Council of State Chambers of Commerce would not even overlook the postal service in any movement to reverse the trend toward more government in business.

The bulletin notes that the government once declined an offer from a citizen to take over the Post Office as a private enterprise, run it strictly on business lines, and produce a profit both for the government and for himself. Grounds for believing that this was one of the costliest mistakes the government ever made, states the bulletin, can be found in a comparison of the record of the postal service "with the other giant enterprise in the communications field, the privately owned Bell telephone system."

WE are reminded that the Hoover Commission found the Post Office "creaky with overcentralization, its equipment obsolete, its financing methods cumbersome, its use of man power wasteful, its rate structure inequitable and chaotic, and its administration bogged down in a maze of divided authority. Decades of political tinkering have saddled the system with a crazy-quilt pattern of transport and postal rate subsidies which doom it to perennial deficits." In addition, its service has been described as "horse and buggy service in the era of supersonic jets."

While the postal service has been "alarmingly slow" in improving its management policies and methods, the bulletin continues, "the Bell system is constantly expanding and improving its services to the public. Today it has 37,400,000 telephones in service, which is twice the number it had in 1940. Add to this figure the 8,000,000 phones owned by the independent companies throughout the country, and we have a total of 45,000,000 telephones at the service of the American people, which is nearly twice the number of phones installed in all the rest of the nations of the world

combined. The majority of foreign telephone systems, by the way, are government-owned." The bulletin also points out that the Bell system is constantly modernizing its equipment and improving its methods, maintaining large experimental laboratories for this purpose.

THE financial records of the two institutions offer an equally striking contrast. In terms of gross revenue, the Bell system is larger than the Post Office. "In calendar year 1951," the bulletin points out, "the Bell system had gross operating revenues of $3,639,462,365. In the fiscal year 1951, the Post Office showed gross receipts of $2,328,327,570, including receipts from the Treasury applicable to that year. The Bell system last year paid out $629,559,000 in operating taxes—Federal, state, and local. It also collected for Uncle Sam a total of $571,123,801 in excise taxes paid by telephone users. The postal service, of course, pays no taxes. The Bell system ended 1951 with a net operating income of $435,591,119. The Post Office wound up its fiscal year 1951 with an operating deficit of $551,044,570. The value of the Bell system's physical plant is given as $10,949,686,000. But no one in the Federal government, even the Post Office Department, has a remote idea of the value of the physical plant of the postal service."

The bulletin recognizes the validity of the argument that the large postal deficit includes outlays for franked mail and certain subsidies which ought to be charged to other Federal agencies. It is pointed out, however, that the Post Office Department does not charge against its income any rent for the land it occupies, any interest on its investment in plant and equipment, nor any depreciation on its buildings. New buildings and replacements of destroyed buildings are financed by special congressional appropriations. The Civil Service takes care of employee pension payments. "A private company," the bulletin notes, "could not fail to take into account these expenditures without committing itself to eventual bankruptcy."

According to the bulletin, a recent spot check of postal employees "revealed a receptive attitude to the idea of turning the postal service over to tax-paying private enterprise." The hierarchic setup impairs morale, in the view of some employees. Others reported that department officials sometimes took two and one-half years to respond to suggestions.

Chesapeake & Potomac Plans Appeal in Rate Reversal

THE Chesapeake & Potomac Telephone Company is appealing a Baltimore circuit court decision wiping out the 10-cent phone call in Maryland. The ruling upset a coin-box increase granted the utility by the Maryland Public Service Commission. In a decision last March, the commission authorized a boost in coin-box rates from 5 to 10 cents but denied increases in charges for other telephone services. The commission ruling granting the increase had been appealed by Baltimore city and the people's counsel, who wanted it wiped out, and the telephone company which thought it inadequate. In his court opinion, Judge W. Conwell Smith said the rate base was not supported by "substantial evidence." He said the rate of return was established without giving weight to tax economy and tax advantage. "If the telephone company were competing with others," he declared, "you may be sure it would be availing itself of all possible economies in operation, including tax economy."

Should the judge's decision be sustained by a higher court, the company will be faced with the unique problem of how to rebate the extra nickle it has been collecting since the commission authorized the boost. The complexities of the case found sympathetic comment in the Baltimore *Sun*. Its editorial on the subject is a good example of fair treatment. *The Sun* did not take sides in the case, as is the tendency of many newspapers in rate matters, but confined itself to educating the public to the difficulties of rate making.

Financial News and Comment

By OWEN ELY

Progress of the Electric Utility Industry

THE following is summarized from a recent speech by B. L. England, president of the Edison Electric Institute and of the Atlantic City Electric Company, before the New York Society of Security Analysts:

The investor-owned power companies, which sell 84 per cent of the total power used by ultimate consumers, are owned by some 3,000,000 stockholders. However, because of their stake in the funds of life insurance companies, over half of the people of the United States are interested in the financial well-being of these companies.

The industry doubles its output about every decade, the long-range trend of growth from 1920 to 1951 being 7.1 per cent compounded (in the past decade, 8.6 per cent). Projections of the demand for electricity into future years at the same approximate rate produce such large figures that the government agencies have used them to assert that the job is too big for private capital. However, Mr. England stated, "from the standpoint of the supply of power and the supply of electrical consuming equipment, appliances, and devices, the industry and the manufacturers of equipment were never better prepared to develop and supply adequately these potential market additions."

The investor-owned power companies during the postwar period have expended nearly $12 billion on plant expansion and expect to spend over $6 billion additional by the end of 1954. The present outlook for 1955 indicates a continuation of expenditures at about the same annual rate. The program has been slowed somewhat during 1951-52 by material shortages, the steel strike, etc., but allowance of a few months' more time will make up for this lag.

AT the end of World War II the power companies had a net investment in plant of about $14.5 billion. New construction since that date has been financed approximately as follows:

	Millions
Internal Cash (Depreciation, Retained Earnings, etc., ...	$ 4,340
Sale of Bonds and Debentures (Long-term)	5,005
Sale of Preferred Stock	1,103
Sale of Common Stock	1,522
Total	$11,970

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Estimated expenditures for 1952 are $2.6 billion but, because of the steel strike, the amount may fall somewhat short of this figure. If the full amount were needed, about $1.9 billion would have to be raised from sale of securities, the balance of $735,000,000 being obtained from internal cash. During the first eight months of this year security sales were as follows: bonds and debentures, $770,000,000; preferred stock, $152,000,000; and common stock, $330,000,000, or a total of $1,252,000,000.

THERE has been some concern over the effects of inflated costs on the utility construction program. How will the additional investment of $18 billion for the period 1945-54 compare with the $14.6 billion previously invested by the industry?

"In my opinion," said Mr. England, "this new money is being remarkably well spent from the standpoint of lasting productive values, and this has been brought about principally through engineering advances, many of them unheralded and individually not very significant but of great effect in the aggregate." According to Vice President Foote of Commonwealth Services, steam plants of highest efficiency are now being built for $150 per kilowatt compared with $100 per kilowatt in 1940, an increase in unit cost of 50 per cent, although the general construction cost index today is 2 to 2½ times what it was ten or fifteen years ago. The average investment in total plant facilities per customer today is less than $500—a figure not much higher than in 1940 or the 1920's.

As a result of improved efficiency coal consumption per kilowatt hour has dropped in the past decade from 1.33 pounds to 1.14 pounds. The most efficient plant now produces power at about three-quarters of a pound per kilowatt hour and plants now designed will lower that figure to about two-thirds of a pound. The generating plants installed since the war, with their low fuel consumption, now provide a large part of electric power generation; the older plants are used only a few hours of the year in carrying peak loads but also serve as stand-by reserves in the case of local or national emergencies which might cause a sudden increase in power demand.

The Federal government has 8,000,000 kilowatts of generating capacity in service, another 8,500,000 under construction, another 10,000,000 authorized by Congress for construction, and still another 41,000,000 is being proposed by government agencies. Currently it produces only about 12 per cent of the power generated for public supply. (Municipal and other local government agencies produce about 7 per cent.) This government power, Mr. England pointed out, does not pay any Federal taxes, and in various ways the nation's taxpayers help to subsidize the cost of power from these Federal projects. The TVA, for example, has had total appropriations at $1.6 billion, yet in twenty years has paid only $47,000,000 interest to the Treas-

CURRENT YIELD YARDSTICKS

		1952 Range		*1951 Range*	
	Recent	*High*	*Low*	*High*	*Low*
U. S. Long-term Bonds—Taxable	2.70%	2.75%	2.56%	2.74%	2.39%
Utility Bonds—Aaa	3.01	3.08	2.93	3.09	2.64
—Aa	3.06	3.11	2.99	3.18	2.70
—A	3.24	3.31	3.21	3.32	2.82
—Baa	3.51	3.58	3.49	3.58	3.21
Utility Preferred Stocks—High-grade	4.07	4.24	3.94	4.25	3.77
—Medium-grade	4.47	4.71	4.33	4.71	4.19
Utility Common Stocks	5.39	5.59	5.27	6.14	5.62

Latest available Moody indices are used for utility bonds and preferred stocks; Standard & Poor's indices for government bonds and utility common stocks.

ury Department which would work out at about 15/100ths of one per cent return on the investment.

Federal power also discriminates against 80 per cent of the power consumers of the United States (through

LIST OF BROKERS' UTILITY ANALYSES*

Company Analyses	*Firm*	*No. Pages*	*Issued*
American Gas & Electric Co.	Argus Research Corporation	2	July
American Gas & Electric Co.	American Securities Corporation	7	July
American Natural Gas Co.	Goodbody & Co.	3	Aug.
Brooklyn Union Gas Co.	Goodbody & Co.	5	Aug.
Central Electric & Gas Co.	G. A. Saxton & Co., Inc.	3	Sept.
Central Illinois Light Co.	Paine, Webber, Jackson & Curtis	3	July
Central & South West Corp.	E. F. Hutton & Company	1	Aug.
Cincinnati Gas & Electric Co.	Paine, Webber, Jackson & Curtis	2	Aug.
Citizens Utilities Co.	Carl M. Loeb, Rhoades & Co.	10	June
Citizens Utilities Co.	Birnbaum & Co.	4	Sept.
Cleveland Electric Illuminating	Argus Research Corporation	2	Sept.
Consolidated Gas Utilities	Sutro Bros. & Co.	2	Aug.
Consolidated Natural Gas Co.	American Securities Corporation	8	June
Consumers Power Co.	Argus Research Corporation	2	Aug.
Dayton Power & Light Co.	Argus Research Corporation	2	July
Detroit Edison Co.	Paine, Webber, Jackson & Curtis	2	Aug.
Electric Bond & Share	Paine, Webber, Jackson & Curtis	4	Sept.
International Hydro-Elec. System	Vilas & Hickey	5	July
International Hydro-Elec. System	A. G. Becker & Co.	8	July
Iowa Southern Utilities	Geyer & Co.	4	July
Long Island Lighting Co.	E. F. Hutton & Company	1	Aug.
Mexican Light & Power	Carl M. Loeb, Rhoades & Co.	4	Sept.
Minneapolis Gas Co.	Kerr & Co.	4	July
Mississippi Valley P. S.	Loewi & Co.	1	Aug.
Montana Power Co.	Josephthal & Co.	4	Aug.
Northern New England Co.	Ira Haupt & Co.	1	Aug.
Ohio Edison Co.	Paine, Webber, Jackson & Curtis	2	June
Ohio Edison Co.	American Securities Corporation	6	July
Oklahoma Gas & Electric Co.	Paine, Webber, Jackson & Curtis	2	July
Penna. Power & Light	Argus Research Corporation	2	Sept.
Philadelphia Electric Co.	E. F. Hutton & Company	1	Aug.
Portland Gas & Coke Co.	A. G. Becker & Co.	2	Aug.
Public Service Co. of Colorado	Paine, Webber, Jackson & Curtis	3	Aug.
Public Service Co. of Indiana	Argus Research Corporation	6	Aug.
Puget Sound P. & L.	Sutro Bros. & Co.	2	Sept.
South Jersey Gas Co.	Golkin & Co.	6	July
Southeastern Public Service Co.	Troster, Singer & Co.	2	Sept.
Standard Gas & Electric Co.	Reynolds & Co.	1	June
Standard Gas & Electric Co.	Gerstley, Sunstein & Co.	3	Aug.
Virginia Electric & Power Co.	American Securities Corporation	6	June
West Penn Electric Co.	Carl M. Loeb, Rhoades & Co.	4	Aug.
Western Union Telegraph Co.	Bruns, Nordeman & Co.	1	Aug.
Wisconsin Electric Power Co.	Argus Research Corporation	4	July
Bulletins and Tables			
Electric Power Industry	David L. Babson & Co. (Boston)	4	July
Favored Utilities	Sutro Bros. & Co.	2	Aug.
Tabulation of Electric & Gas Utility Stocks	First Boston Corporation	11	Aug.
Electric Utility Stocks for Income	Goodbody & Co.	10	Aug.
Natural Gas Industry	Sutro Bros. & Co.	2	June
Monthly Utility Review	Josephthal & Co.	4	Sept.
Monthly Utility Review	Eastman, Dillon & Co.	10	Sept.
15 Attractive Utility Stocks	Walston, Hoffman & Goodwin	2	July
Values in Gas Pipeline Stocks	Kerr & Co.	4	Sept.

*Similar lists have appeared in the FORTNIGHTLY for July 17, April 24, and January 31, 1952; and in 1951 in the November 22nd, August 2nd, April 26th, and January 4th issues.

a preference clause in the law) in favor of the 20 per cent who are served by municipal systems, public utility districts, and rural electric co-operatives. The marketing of power from these Federal projects, except in the TVA area, has been handled by the Interior Department, the head of which frankly confesses himself to be a believer in government ownership of power.

In a few years, Mr. England pointed out, potential water-power resources will have been largely developed by private as well as government agencies. (A recent release by the FPC indicates that during the year ended June 30, 1952, licenses were issued for hydroelectric projects having a record total capacity of 1,411,000 kilowatts and costing some $364,000,000.) At that time "flood control, irrigation, and navigation" will no longer serve as excuses for huge government appropriations for power projects. Without these constitutional props public power advocates will have to campaign for steam power plants (as they have already done with moderate success).

"With the issue . . . thus openly drawn, the electric companies should find definite advantage on their side," Mr. England stated. Recently Congress has shown antagonism to the desire of public power advocates to build duplicating transmission lines (to connect hydro projects with retail areas), and steam-generating facilities (to "firm" the hydro power).

The proportion of total power output provided by investor-owned companies has held around 81 per cent since 1944; it may dip lower for a time when the big Federal dams on the Columbia and Missouri rivers come into operation, but should turn up again as the supply of power from other sources increases again.

One step which might "slow down" the Federal power program would be to tax all public power projects on the same basis that private power companies are now taxed. Near the beginning of the last session of Congress the chairmen of the Senate Finance Committee and the House Ways and Means Committee indicated that they favored taxing local government proprietary enterprise and co-operatives.

Britain is setting us a good example: its nationalized power system must not only pay taxes and interest, but rates must be high enough to cover all expenses, so that the system is not favored by invisible subsidies.

If this system were applied in this country, the preference clause in favor of local government power systems and co-operatives would lose its advantage since government power would, in most cases, cost more than power produced by the private utility companies.

Regarding the work of the state commissions, Mr. England stated as follows:

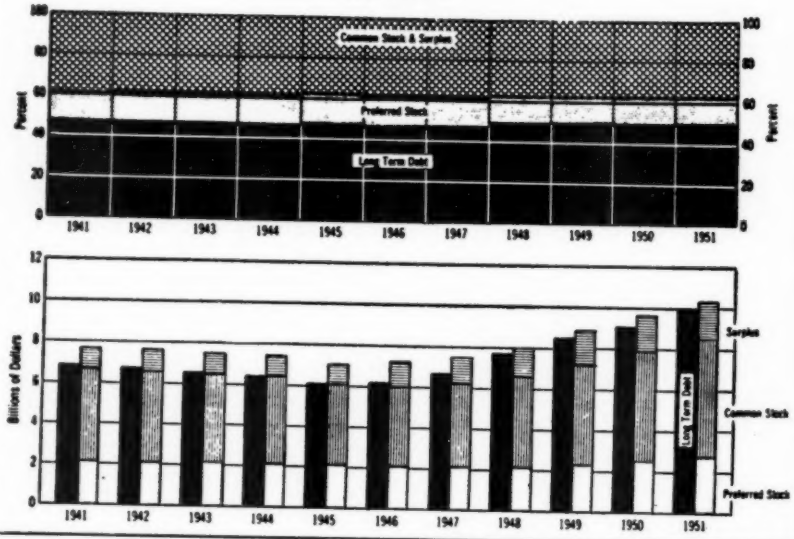
> The commissions in many states are becoming recognized as an important part of state government, and are able to recruit able, young graduates as assistants to staff positions. The quality and performance of their staffs have improved. . . . Private enterprise and state regulation are so connected in this electric industry that both must do their job well if either is to survive. . . . if public regulation by the state commissions fails, public activity in the form of *public enterprise* will *increase*. We are glad to see the strengthening of state public utility commissions.

During the past five and one-half years, according to a record compiled by the Edison Electric Institute, 174 electric utility companies have applied for 333 rate increases. Two hundred and eighty-eight of these requests have been granted, 32 are pending, 6 have been withdrawn, and only 7 denied. In the first seven months of 1952 (included in the totals just cited) 44 applications were granted, 16 are pending, and 2 were denied.

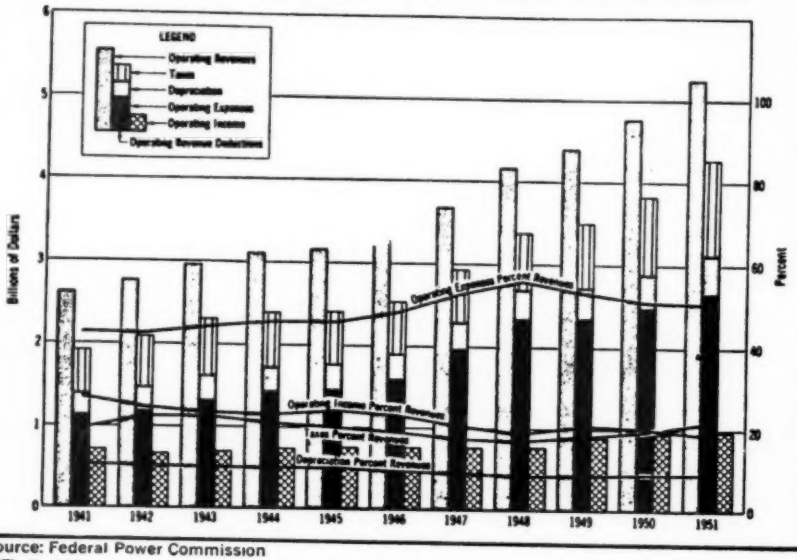
Regarding rate of return on the utility investment, the current ratio of

ELECTRIC UTILITIES (CLASS A AND B)

CAPITALIZATION



ELECTRIC OPERATING REVENUES - OPERATING REVENUE DEDUCTIONS - OPERATING INCOME



Source: Federal Power Commission

gross corporate income to capitalization in 1951 was 5.74 per cent compared with 6.26 per cent in 1932 and 7.45 per cent in 1922. These figures reflect the influence of the low money-rate policy set by the Federal government.

While rates for electricity are turning slowly upward, the average worker still spends less than one per cent of his annual cost of living for electricity, despite the fact that its use in the home has more than doubled in the past decade. According to census figures for 1947, the cost of electricity was less than three-quarters of one per cent of the value of the finished product, and the percentage would probably be smaller today. Obviously, public interest is more in the adequacy and quality of electric service than in rates.

MR. ENGLAND concluded "the importance of electric service in American life, the outlook for expansion in the demands for this service, the tremendous amounts of capital required, the sensitive human relations problem inherent in rendering electric service, the variety and magnitude of relations with governmental bodies, all combine to demand able leadership for electric utility companies. . . . The entire free enterprise system is under heavy attack from the easier-to-boss but far-less-efficient government ownership system which has engulfed a large part of the world. The electric utility companies are aware of the grave importance of leadership, and, I can assure you, are devoting much more attention to the selection, training, development, and inspiriting of personnel for all leadership posts in these companies."

Electric Utility Trends of the Past Decade

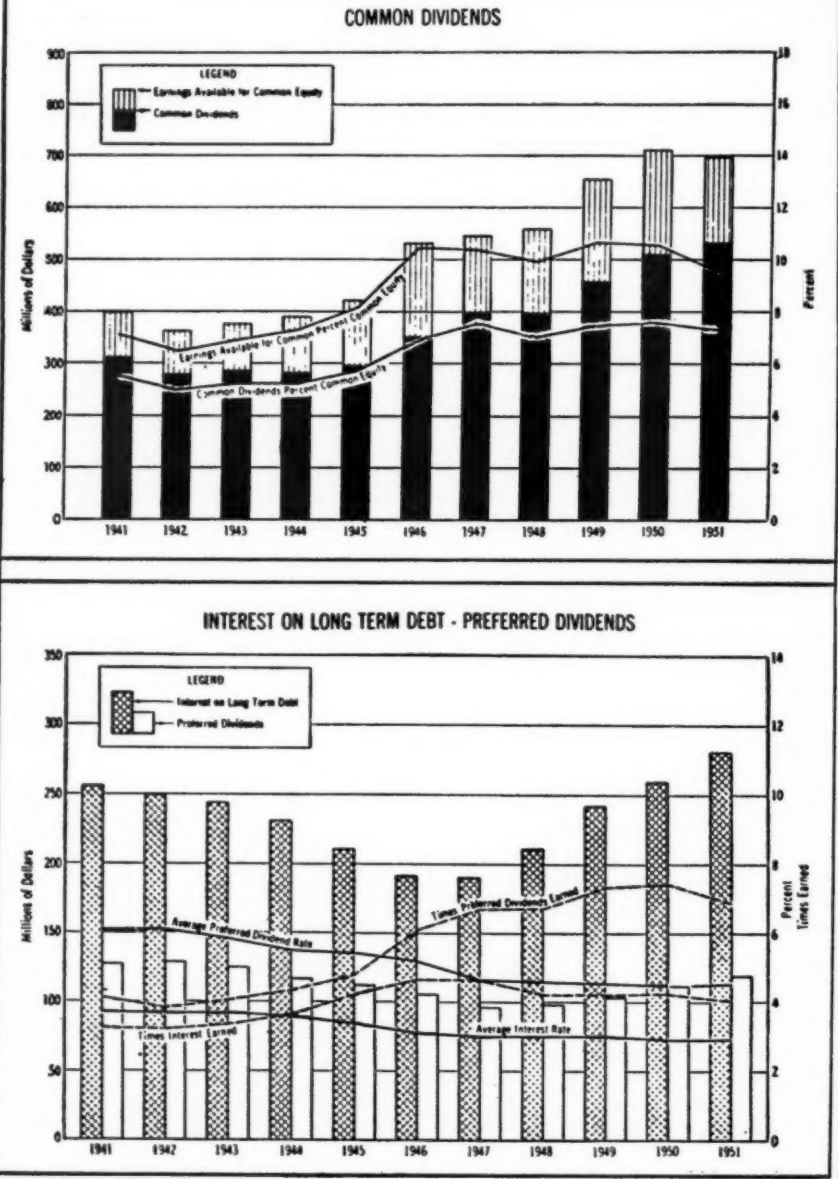
THE accompanying charts, reproduced from "Statistics of Electric Utilities for 1951," issued recently by the Federal Power Commission, reflect some interesting trends of the past decade. Thus the chart on capitalization (page 510) illustrates the shrinkage in common total stock equity during 1941-45—due to the elimination from the books of not only the plant "write-ups" but also a considerable amount of stockholders' funds which had been used for the acquisition of other properties. This represented the Federal regulatory policy of adjusting plant account to the basis of "original cost when first devoted to public service." (Part of these write offs are being amortized over a period of years, but the major effect was probably felt in the early 1940's when many holding company subsidiaries were being "purged" under Federal auspices.)

Beginning in 1946 and accelerating recently, capitalization has increased about 50 per cent. During the same period capacity also increased 50 per cent—from 40,000,000 to 60,000,000 kilowatts—so that utility capital was not inflated despite higher construction costs. The upper section of the chart shows the same figures on a percentage basis and indicates that, despite the obvious temptation to finance the construction program largely through long-term debt, which would have saved considerable amounts for stockholders due to leverage and the reduction of income taxes, the debt ratio has increased only slightly.

THE chart on operating revenues and deductions (page 510) shows the rising trend of taxes, which has been largely offset by savings in operating expenses. The chart on interest and preferred dividends (page 512) shows the decline in interest and dividend rates (reversed in 1952) and the rise in "times interest earned" and "times preferred dividend earned," although these ratios turned downward in 1951.

The chart on common dividends (page 512) reflects the improvement in "earnings available for common (as) per cent common equity" and "common dividends (as) per cent common equity." These ratios improved sharply in 1946 when EPT were ended, but showed little change during 1947-50 and turned downward in 1951 under the impact of higher taxes.

ELECTRIC UTILITIES (CLASS A AND B)



Source: Federal Power Commission

RECENT FINANCIAL DATA ON GAS COMPANY STOCKS

1951 Rev. (Mill.)			9/17/52 Price About	Indicated Dividend Rate	—12 Mos. Share Earnings#— Approx. Yield	Current Period	% Increase	Price-Earn. Ratio	Div. Payout
		Pipelines (Some Production)							
$30	S	Mississippi Riv. Fuel ...	35	$2.20	6.3%	$3.23je	D1%	10.8	68%
47	S	Southern Nat. Gas	53	2.80	5.3	4.61je	D1	11.5	61
76	O	Tenn. Gas Trans.	23	1.40	6.1	1.78je	3	12.9	79
84	O	Texas East. Trans.	17	1.00	5.9	1.76d	D2	9.7	57
40	O	Texas Gas Trans.	16	1.00	6.3	1.49je	D29	10.7	67
39	O	Transcontinental Gas ...	21	1.40	6.7	1.29je	61	16.3	109
		Averages			6.1%			12.0	
		Integrated Companies							
98	S	American Natural Gas ..	31	$1.80	5.8%	$2.51je	6%	12.4	72%
188	S	Columbia Gas System ..	13¼	.90	6.7	.87je	D23	15.5	103
8	C	Consol. Gas Utils.	14	.75	5.4	1.42ju	D10	9.9	53
159	S	Consol. Nat. Gas	55	2.50	4.5	4.79je	D5	11.5	52
62	S	El Paso Nat. Gas	34	1.60	4.7	2.85ju	4	11.9	56
27	S	Equitable Gas	22	1.30	5.9	1.88je	2	11.7	69
13	O	Interstate Nat. Gas	39	2.50	6.4	3.27d	1	11.9	76
9	O	Kansas-Neb. Nat. Gas ..	22	1.24	5.6	2.11d	36	10.4	59
59	C	Lone Star Gas	26	1.40	5.4	1.57je	D17	16.6	89
11	O	Mountain Fuel Supply ..	19	.80	4.2	1.15d	16	16.5	70
42	C	National Fuel Gas	14	.80	5.7	1.29je	1	10.9	62
3	O	National Gas & Oil	8	.60	7.5	.91d	D12	8.8	66
40	S	Northern Nat. Gas	37	1.80	4.9	2.62je	17	14.1	69
25	C	Oklahoma Nat. Gas	35	2.00	5.7	2.66ju	D12	13.2	75
19	C	Pacific Pub. Serv.	18	1.00	5.6	1.47d	D34	12.2	68
52	S	Panhandle East. P. L. ..	70	2.00	2.9	3.87je	36	—	52
8	O	Pennsylvania Gas	18	.80	4.4	1.81d	20	9.9	44
92	S	Peoples Gas Lt. & Coke .	138	6.00	4.3	9.99je	9	13.8	60
17	O	Southern Union Gas ...	20	.80	4.0	1.06d	D30	18.9	76
126	S	United Gas Corp.	26	1.25	4.8	1.39je	D14	18.7	72
		Averages			4.9%			13.1	
		Retail Distributors							
25	O	Atlanta Gas Light	22	$1.20	5.5%	$1.78je	D11%	12.4	67%
44	S	Brooklyn Union Gas ...	26	1.50	5.8	2.45je	2	10.6	61
22	O	Central El. & Gas	12	.80	6.7	1.03je	2	11.7	78
3	O	Consumers Gas	24	1.00	4.2	1.47d	31	16.3	68
2	O	Fall River Gas Works ..	31	1.00	3.2	1.65ju	10	18.8	60
5	O	Hartford Gas	38	2.00	5.3	2.39d	D11	15.9	84
1	O	Haverhill Gas Lt.	35	1.80	5.1	2.23ju	11	15.7	81
9	O	Houston Nat. Gas	18	.80	4.4	1.22my	NC	14.8	66
10	O	Indiana Gas & Water ...	24	1.40	5.8	1.90ju	—	12.6	74
1	O	Jacksonville Gas	37	1.40	3.8	2.37d	D52	15.6	59
5	C	Kings County Ltg.	10	.60	6.0	.89je	59	11.2	67
29	S	Laclede Gas	9	.50	5.6	.72ju	D17	12.5	69
19	O	Minneapolis Gas	23	1.10	4.8	1.32je	D5	17.4	83
6	O	Mobile Gas Service	31	1.80	5.8	3.18je	5	9.7	57
5	O	New Haven Gas Lt.	27	1.60	5.9	1.53d	D20	17.6	105
4	O	North Shore Gas	52	3.40	6.5	3.76je	4	13.8	90
124	S	Pacific Lighting	52	3.00	5.8	4.02je	D1	12.9	75
11	O	Portland Gas & Coke ..	18	.80	4.4	1.85je	10	9.7	43
2	C	Rio Grande Valley Gas .	2	.10	5.0	.19d	—	10.5	63
5	O	Seattle Gas	17	.80	4.7	1.21je	D12	14.0	66
5	O	So. Jersey Gas	16	.50	3.1	1.01je	53	15.8	50
2	O	So. Atlantic Gas	11	.70	6.4	.93d	D19	11.8	75
5	O	Springfield Gas Light ..	31	1.60	5.2	1.63d	—	19.0	98
19	S	United Gas Improv.	33	1.55	4.7	2.01je	D5	16.4	77
27	S	Wash. Gas Light	31	1.80	5.8	2.42je	D10	12.8	74
3	O	West Ohio Gas	15	.80	5.3	1.01m	23	14.9	79
		Averages			5.2%			14.0	
		Canadian							
14	S	International Util.	30	$1.20	4.0%	$1.93je	28%	15.5	62%

RECENT FINANCIAL DATA ON TELEPHONE, TRANSIT, AND WATER COMPANIES

1951 Rev. (Mill.)			9/17/52 Price About	Indicated Dividend Rate	—12 Mos. Share Earnings#— Approx. Yield	Current Period	% Increase	Price-Earn. Ratio	Div. Payout
		Communications Companies							
		Bell System							
$3,639	S	Am. Tel. & Tel. (Cons.)	153	$9.00	5.9%	$11.45my	D11%	13.4	79
28	O	Cinn. & Sub. Bell Tel. ..	74	4.50	6.1	4.56d	D1	16.2	99
106	C	Mountain Sts. T. & T. ..	101	6.00	5.9	5.67je	D2	17.8	106
203	C	New England Tel.	111	8.00	7.2	6.90je	D7	16.1	116
478	S	Pacific Tel. & Tel.	112	7.00	6.3	7.92my	D6	14.1	88
62	O	So. New Eng. Tel.	35	1.80	5.1	1.88d	D11	18.6	96
		Averages			6.1%			16.0	
		Independents							
9	O	Central Telephone	12	$ .80	6.7%	$1.26je	7%	9.5	63
85	S	General Telephone	33	2.00	6.1	3.25je	37	10.2	62
11	C	Peninsular Tel.	42	2.50	6.0	3.54je	D6	11.9	71
13	O	Rochester Tel.	14	.80	5.7	1.45je	2	9.7	55
		Transit Companies							
14	O	Cinn. St. Ry.	6	$ .25	4.2%	$ .32d	68%	—	94
9	O	Dallas Ry. & Term.	13½	1.40	10.4	2.46d	40	5.5	57
227	S	Greyhound Corp.	12	1.00	8.3	1.25je	2	9.6	80
12	O	Kansas City P. S.	3	—	—	—	—	—	—
22	O	Los Angeles Transit ...	8	.50	6.3	.79d	55	10.1	63
31	S	Nat. City Lines	11	1.00	9.1	1.91d	—	5.8	52
73	O	Philadelphia Transit ...	5	.80xx	xx	.58m	—	8.6	138
7	O	Rochester Transit	4	—	—	1.12d	—	3.6	—
26	O	St. Louis P. S. A	10	1.00	10.0	.35d	D15	—	286
4	O	Syracuse Transit	17	2.00	11.8	1.75d	D40	9.7	116
18	S	Twin City Rapid Tr. ..	9	—	—	—	—	—	—
24	O	United Transit	3	—	—	.91ag	1	3.3	—
		Averages			8.6%			7.0	
		Water Companies							
		Holding Companies							
26	S	Amer. Water Works ...	9	$ .50	5.6%	$ .67je	D39%	13.4	75
4	O	N. Y. Water Service ...	44	.80	1.8	1.90je	D12	23.2	42
		Operating Companies							
3	O	Bridgeport Hydraulic ..	28	$1.60	5.7%	$1.74d	20%	16.1	92
8	O	Calif. Water Serv.	30	2.00	6.7	2.41ju	44	12.4	83
2	O	Elizabethtown Water ...	87	5.00	5.7	5.74d	D18	15.2	87
6	S	Hackensack Water	33	1.70	5.2	2.56d	D6	12.9	66
3	O	Jamaica Water Supply .	26	1.50	5.8	2.65je	13	9.8	57
3	O	New Haven Water	54	3.00	5.6	2.91d	D10	18.6	103
1	O	Ohio Water Service	23	1.50	6.5	1.78je	D14	12.9	84
5	O	Phila. & Sub. Water ...	48	1.00x	2.1	4.69d	61	10.2	21
1	O	Plainfield Union Wt. ...	53	3.00	5.7	4.09d	D2	13.0	73
2	O	San Jose Water	33	2.00	6.1	2.44je	D4	13.5	82
6	O	Scranton-Spring Brook .	14	.90	6.4	1.20je	20	11.7	75
3	O	Southern Cal. Water ...	10	.65	6.5	.70je	D22	14.3	93
3	O	West Va. Wt. Service ..	29	1.20	4.1	1.30je	2	—	92
		Averages			5.5%			13.4	

C—Curb exchange. O—Over-counter or out-of-town exchange. S—New York Stock Exchange. D—Deficit. *Increase in balance for common stock. #Earnings are calculated on present number of shares outstanding, except as otherwise indicated. PF—*Pro forma.* d—December, 1951. j—January, 1952. f—February. m—March. ap—April. my—May. je—June. jy—July, 1952. NC—Not comparable. x—Stock dividend also paid in 1951. xx—In the six months ended June 30, 1952, the company reported a deficit—consequently it seems unlikely that the 80-cent dividend will be maintained.

What Others Think

Freedom and Power

ELECTRIC power, working in an atmosphere of personal and economic freedom never known elsewhere, is the driving force that has skyrocketed our nation and its people to the highest living standard and greatest degree of industrial progress in the world.

Such is the theme of a dramatic new sound-color motion picture, "Freedom and Power," premiered at the Waldorf-Astoria hotel in New York on September 8th before more than 350 officials of the principal industrial and electric utility companies in the area. The film, produced by the General Electric Company, is designed to give the public a better understanding of the integral rôle electricity plays in national welfare and security. It is the latest presentation in General Electric's "More Power to America" series of visual programs dedicated to the improvement of the American way of life through the increased use of electricity.

The picture graphically depicts, in twenty-nine minutes of animation, the development and importance of the power industry against a moving background of the colonists' historic struggle for freedom from drudgery, unparalleled anywhere in the world. Produced for General Electric in Hollywood by Raphael G. Wolff Studios, "Freedom and Power" is expected to find broad use in electric utility company public information programs. Written to appeal to every type of audience, it will be made available to industrial firms, schools, service groups, clubs, trade and business associations. It has already been hailed by top business and educational leaders who have had the opportunity of viewing it.

The film explains how electricity has, in the span of just one lifetime, done more to change the lives of all mankind than any other physical force the earth has ever known. It shows how the United States, with only 6 per cent of the world's population, can produce over 40 per cent of the world's goods, pointing out that in 1950 every American worker had on the job with him an "invisible battalion" of more than 150 unseen helpers in the form of electric horsepower.

WITH scenes depicting the use of power in the mine, the mill, the machine shop, and on the huge assembly lines, "Freedom and Power" proves industry's dependence on electricity. Glowing Kodachrome sequences show electricity's indelible mark on the farm. Engineered lighting, remote-control wiring, gleaming arrays of appliances, and the newly developed heat pump that warms a house in winter and cools it in summer illustrate the application of power in the home.

The almost unbelievable picture of the future painted by the film is tempered, however, by the narrator who warns that the things which have been accomplished and the wonders of tomorrow depend upon freedom, now threatened in many quarters. "We have but the weapons of freedom with which to retaliate," he says, "courage, faith, a creative spirit, and the tool that built our way of life—productivity."

In commenting on the film, B. L. England, president of the Edison Electric Institute, briefly reviewed the growth of the electric industry from the opening of Thomas Edison's Pearl street generating station seventy years ago, with just fifty-nine customers, to its present state—a generating capacity of 75,500,000 kilo-

watts serving some 48,000,000 customers. England stressed the fact that an electric company is primarily a local business and thus "must rise or fall with the community," but suggested that electric companies must do more than work diligently to serve the public better.

"THE customers, employees, and stockholders should have a better understanding of our business, the benefits to them and the nation for a continuation of the industry under the free enterprise system, which has made it today unequaled anywhere," he said. He pointed to the industry's Public Information Program, the driving force behind Production for Freedom Week which started on September 7th, as the proper kind of "grass-roots" program to give a better understanding of the industry. He continued:

> We who believe in free enterprise do not have the force of government to back our beliefs. Our deeds and our words must inspire the people to stand with us. The very fact that free leadership lacks the power to compel people to agree to its decisions, provides us with an inestimable advantage in our struggle with Socialism. It means that our business leaders cannot function as bureaucrats — entrenched in the complexities of government, out of reach and indifferent to the people. Our leaders must be alert — to public needs, employee wishes, stockholder desires, national and international development and financial conditions, to a myriad of considerations large and small which could affect for good or ill the progress of the enterprises—electrical or otherwise—entrusted to the managers.

The place of leadership in economic achievement held by the United States has been reached primarily because the individual has been free to conduct a search for something better, as the film, "Freedom and Power," so well illustrates, England remarked. "This stimulating characteristic," he concluded, "can exist only in a nation where economic freedom is a respected tradition; and where it is maintained. If this attribute of our society slips away from us, all incentive to progress will be stunned, and America's bright promise will forever go unfulfilled. We cannot allow this to happen."

RALPH J. CORDINER, president of General Electric Company, told the business executives that "a weapon of our enemies—the suppression of individual rights in favor of bureaucratic state control"—is now being used in this country as an artificial remedy for the never-ending series of emergencies that face our nation. He said governmental restrictions, regulations, and controls are limiting American freedom, "leaving us weaker to face each succeeding emergency." Contrasted with this, he pointed to the record of private industry, typified in Edison's work, "as the best kind of proof of the vitality of freedom in the economic area."

Economists' Report Criticizes ICC Decision

FREIGHT shippers are subsidizing the railroads' current capital expansion program as a result of the Interstate Commerce Commission's latest decision to grant interim increases on railway rates to carriers, in the view of one of the nation's foremost transportation authorities as set forth in a documented analysis of the Interstate Commerce Commission's decision in Ex Parte 175. How passenger-train and less-than-carload-lot service deficits are also absorbed by the freight charges is explained in the statement by Dr. Ford K. Edwards, director of the Bureau of Coal Economics, National Coal Association.

The new increases, set by the commission last April and scheduled to continue

"MY HUSBAND HAS THE FUNNIEST WAY OF ECONOMIZING. HE SAID HE CUT THE PHONE BILL IN HALF BY TAKING AWAY A CHAIR WE KEPT HERE!"

through February, 1954, are expected to amount to almost two-thirds of a billion dollars, Dr. Edwards observes. He declares that the findings in the ICC majority report of the carriers' financial and credit position "fall far short" of explaining the necessity for increases "of this magnitude," and he offers the following summary of these "unique" findings in the ICC order:

The report adds $618,000,000 to previously granted interim increases although the commission found that the carriers could "get by" for a time with the existing rates and traffic; it grants 50 per cent higher increases in the South and West than in the East, reversing the prior interpretation of sectional needs; it sets up for the first time a lengthy series of tests on rail financial health; it displays much preoccupation with the possibility of future serious traffic recessions and future unfavorable trends in wages, material costs, and taxes; it sharply quali-

fies its manner of valuing the rail property; it stresses the shippers' obligation to furnish the funds needed to complete the rails' current vast capital expansion program; it ignores the growing problem of passenger deficits; and, perhaps most important of all, it sets a time limit on the rails' need for additional revenues by setting an expiration date to the increases granted.

"RAIL increases which are three to four times the higher cost anticipated by the roads cannot be reconciled with the finding that carriers could 'get by' for a time," Dr. Edwards declares, "nor does a weighing of the evidence as to the carriers' physical and financial condition, including debt retirement, the coverage of fixed charges and equipment maturities, the rise in net interest costs, the decline in current and cash ratios, the evidence on deferred maintenance and over-all physical condition of the roads, and the cash outlays for new plant dividends offer much more explanation. The fears expressed for upward trends in wage and material costs for severe traffic recessions are not too convincing and do little in the mind of the reader to bridge the gap between the anticipated higher cost of record and the large revenue increases actually granted."

After reviewing the commission's statement of motivation, Dr. Edwards concludes that the "most satisfactory" explanation of the April 11th order is that the adjustment was aimed at carrying the roads "over the hump" on their huge postwar capital expansion program, particularly in equipment, a task under way since 1948 and now well along the road to completion. As evidence that "this interpretation of commission intent is not wholly at variance with the facts," Dr. Edwards cites this recent statement of Commissioner James K. Knudson, Defense Transport Administrator, in reference to the freight car program and the "apparent reluctance" of the railroads to order more cars: "The railroads pledged to the commission in Ex Parte 175 that they would use their added revenues to provide new equipment. I, for one, let my vote be influenced by that pledge because I know that this country needs well-equipped railroads."

DR. EDWARDS' analysis appraises the commission's treatment of rates of return, property valuation, profit ratios, fixed charges, stock earnings, surplus, current position, deferred maintenance, stock issues, and other factors. Attention is also given to matters left unsaid or treated by indirection in the report, primarily the losses in the passenger and LCL services and the burden placed on shippers to supply the carriers with needed capital funds for improvement purposes. The latter items are stated as adding nearly a billion dollars to the carload shippers' current freight bills.

On the subject of time lags, Dr. Edwards notes that the railroads have had general rate increases—either interim or final — on the average of once every seven months since 1946, but that the greatest lags have occurred in the matter of general passenger fares, where there has been no rail move since 1949—except in the South—to request a general passenger fare increase despite large increases in wage, fuel, and other costs, and sharp increases in passenger deficits.

Dr. Edwards states that the "lack of any objective analysis of rail rates of return, in and of themselves, and the weight given to financial factors, indicates that the issues turn almost entirely on a §15A approach; *i. e.*, how much money does it take to provide the services?"

VARIOUS aspects of the subject of "rate of return" are discussed, including the enormous variations in the profit-producing potential of the various classes of rail traffic. Rates on many commodities are seen as having turned sharply downward during the past three years, while rates on others have been rising steadily. Also treated at some length in the statement is the commission's problem of finding a rate base figure (property valuation) against which to compute a rate of return.

In an examination of the commission's

"IF ANYBODY SAYS 'MORE FUN THAN A POLE FULL OF MONKEYS,' I'LL . . . I'LL . . ."

treatment of the ratio of profits to operating revenues, the statement points out that inadequate consideration has been given to the arithmetic of inflation, and whereas operating costs and operating revenues have been rising, fixed charges

have been declining, with the result that the coverage of fixed charges is currently above the postwar average and well above that of the twenties. It adds that cash outlays for new capital goods and dividends were at a postwar high in 1951.

"The rails' current and cash position," Dr. Edwards continues, "and the postwar trends in the current ratios for the industry as a whole, are found to compare favorably with those of the top earning roads and with those of the electric utilities and industry generally. In the matter of deferred maintenance, the conclusion is reached—after a review of the testimony of railroad officers, the historical maintenance ratios, and the bureau of valuation figures—that the situation is far from being 'out-of-hand' and that if the money has not been going into the property in one form it has certainly been going into it in another."

THE commission's treatment of rail stock issues is also reviewed in the analysis, which sharply criticizes rail contentions that their credit status is a guide to freight rate increases, with credit—in turn—tied to the volume of new stock sold. To hold up the absence of stock issues as an indication of the need for higher freight rates is compared to "the endeavor to fill a pitcher which has a hole in the bottom."

The majority report's appraisal of the rail physical and financial position is held to be in "striking contrast" to that set down in the minority report, and is found to "diverge" from the position of outside financial analysts who consider the carriers in 1951 to be in the strongest physical and financial condition in history.

Out-of-pocket losses in the passenger-train and LCL services are found to place a burden of at least one-half billion dollars annually on carload freight traffic, and the 25-year history of passenger earnings and deficits is reviewed with the conclusion that "this problem desperately needs to be played up rather than played down; that the piecemeal approach of comparing the bare-bone costs and revenues of individual trains, while useful, nevertheless falls far short of portraying the over-all realities of the passenger service losses and the needed solutions."

The Tidelands Issue

A MAJOR issue in the current presidential campaign is the question of ownership of the submerged lands, the so-called "tidelands," and the minerals under them. Though the issue has received considerable attention from the press, particularly in connection with Texas and the revolt of that state's Democratic politicians against the Democratic candidate, Adlai Stevenson, it is doubtful if the vast majority of voters either in Texas or anywhere else have a clear idea of what is actually involved in this controversy. General Eisenhower has gone on record in favor of state ownership of the tidelands, while Governor Stevenson has endorsed President Truman's position that these lands belong to all of the people of the United States—*i.e.*, the Federal government—and that any benefits derived from the tidelands should be shared by all the states.

In an effort to explain the issue as clearly as possible, the *Houston Chronicle* recently printed a series of articles defining the term "tidelands," the legal controversy between state and Federal ownership, the mineral wealth already withdrawn from them, and the results expected from future development.

Texas has a special claim to the tidelands, owing to the unique conditions by which it entered the union, but all of the coastal states, notably Louisiana and California, claim ownership of these lands on grounds that the Constitution grants to the Federal government only those powers expressly given to it by the states, that the states have never granted the tidelands to the Federal government and have, in fact, held title to

them for more than one hundred years. In 1947, the Supreme Court decided that the Federal government has "paramount rights" over these lands which give it control of the minerals lying beneath them.

THE additional claim of Texas to ownership is more complicated. It was expressly stated in the joint resolution passed by Congress setting up conditions for the annexation of Texas to the Union that the new state would keep title to its public lands. As the *Houston Chronicle* puts it:

> Both claims involve fundamental principles. The first involves the encroachment of the Federal government on the rights of states and individuals; some refer to it as a step toward national socialization. The second one, peculiar to Texas, involves the question whether the Federal government will honor agreements solemnly made by previous Congresses and administrations, through regular constitutional processes.

When President Truman vetoed a bill passed by Congress in its last session giving quitclaim title to the tidelands to the states, he specifically recognized the special claim of Texas. This claim rests on the following facts as outlined in the *Chronicle*:

> The first session of the Congress of the Republic of Texas fixed the boundaries of the Republic. Its southern boundaries began three marine leagues (10½ miles) south of the mouth of the Sabine river and extended a like distance into the gulf from shore to a point three leagues out from the mouth of the Rio Grande. The western and northern boundaries extended into parts of what is now New Mexico, Colorado, and Wyoming. When the United States in 1838 recognized the Republic of Texas, it technically recognized its boundaries.
>
> On March 1, 1845, a joint resolution of both houses of Congress, approved by the President, set up the conditions under which Texas could be annexed. Texas had asked the United States to assume the Republic's $10,000,000 debt in return for taking over its public lands. This Congress refused to do. It specifically stated that Texas would keep its public lands—and its public debt. These public lands, under the boundaries set up by the Congress of the Republic and recognized by the United States, extended 10½ miles to sea.
>
> Further recognition of Texas' boundaries came when the United States paid Texas $10,000,000 to relinquish its title to territory extending north of the Panhandle. Then, after the war between the United States and Mexico over the annexation of Texas, in 1848, both Mexico and the United States recognized in the treaty of Guadalupe Hidalgo the Texas boundaries extending 10½ miles to sea.

According to the *Chronicle*, these facts clearly establish the Texas claim to its public lands, including the tidelands. It is pointed out that today Texas still owns its public lands and has a land office to administer them. In the other 47 states, the Federal government owns the public lands, which are administered by the Department of the Interior.

THERE was virtually no argument over ownership of the tidelands for one hundred years. It was apparently just assumed that the states held title to them. It was not until 1926, when oil was discovered in the submerged lands off the coast of California, that the tidelands began to attract any attention. So far, the off-shore California fields have produced about 200,000,000 barrels of oil. Applications from oil companies to lease the tidelands were turned down by the Department of Interior under Secretary Ickes on the grounds that the tidelands belonged to the states. At the same time, Ickes had the matter investigated and got the Justice Department to ask Congress for permission to file suits against the states for ownership of the tidelands. Hearings were held on the subject in

1938 and 1939, and twice Congress refused to grant permission to file the suits.

There the matter rested until Harry S. Truman became President. Truman ordered the Department of Justice to institute the suits on the grounds that congressional approval was not needed. A suit against California was filed in 1945. The following year Congress passed a bill quitclaiming the tidelands to the states which the President vetoed, pointing out that the matter was before the Supreme Court and should be decided there. Congress sustained the veto. On June 23, 1947, the Supreme Court decided in favor of the Federal government, ruling that "California is not the owner of the 3-mile marginal belt along its coast, and the Federal government rather than the states has paramount rights in and power over that belt, an incident to which is full dominion over the resources of the soil under the water area, including oil." It was a 6-to-2 decision, with Justices Frankfurter and Reed dissenting. Justice Reed pointed out that the doctrine of "paramount rights" could extend to "every river, farm, mine, and factory of the nation."

IN 1948 the government filed suits against Louisiana and Texas for ownership of their tidelands. The government again emerged the victor, this time in a 4-to-3 decision, Justice Minton joining Frankfurter and Reed in the minority. The claim of Texas based on its annexation treaty was not considered. This year Congress again passed a bill quitclaiming the tidelands to the states and it was again vetoed. Congress adjourned before taking any action on the veto. The two presidential candidates have taken opposite stands on the matter.

No one knows for sure how valuable the tidelands are. The tidelands off California have produced 200,000,000 barrels since 1926, and those off Louisiana some 6,000,000, with production on a rising scale. The first off-shore well in Texas was drilled in 1935 by the Humble Oil & Refining Company. It produced for a while but eventually had to be abandoned. Out of 17 wells drilled since then off the Texas coast, only one had been a producer. This is a gas-distillate well drilled 8½ miles off Galveston. According to the *Chronicle*, most experts believe that the oil structure off Texas lies beyond the 10½-mile limit claimed by the state.

In 1939, Texas set up a school land board which now sets the terms for leasing the tidelands. The money that the state collects from its tidelands all goes to its permanent school fund for the operation of the state's public school system. In 1947 the board leased 430,000 acres, receiving $7,414,000 in bonuses and $770,000 for the annual rentals on the leases, most of them at $1 a year. The state retains a one-eighth royalty, as does the average landowner. The board has not done any leasing since the Supreme Court denied a rehearing in the Texas Case in 1950. It has been estimated that if Texas could have continued to lease its tidelands and could have got the same average bonuses, it would have received an additional $7,000,000 to $10,000,000.

THE Federal government retains a one-eighth royalty, but does not call for bids in a wildcat area. Instead, oil companies and individuals are permitted to lease as much as they want, paying 50 cents an acre for the first three years, 25 cents an acre on the fourth year, and 25 cents an acre for the fifth year. The *Houston Chronicle* article pointed out:

> The oil companies would save money by leasing from the Federal government. However, most independent oil men and many of the companies prefer to deal with the states. Biggest reason for this is that they fear too much power in the central government and feel as a matter of constitutional principle that the states own the tidelands.

The concern shown by Texans over the controversy is understandable, in view of estimations that as much as $1 billion or more could be received from their tidelands in a period of ten years if the offshore lands prove as productive as those of California and Louisiana.

The March of Events

In General

ATA Meeting

"Bus and streetcar riders who represent 60 per cent of the people traveling daily in urban communities can have better service just as soon as they begin to demand 'priorities' for their public transportation systems."

This was the declaration of Colonel Harley L. Swift, retiring president, American Transit Association and president of the Harrisburg Railways Company, at the opening of the 71st annual convention of the American Transit Association at the Traymore Hotel in Atlantic City on September 22nd.

Colonel Swift used figures from recent national surveys to show that public transit carries 60 per cent of the people on city streets, while using only 6 per cent of the vehicles on city streets and only 20 per cent of the available street space. He said that between 15 and 35 per cent of the remainder of the population use their automobiles in heavily congested downtown areas and are responsible for approximately 60 per cent of the traffic congestion problem, because only 1.7 persons occupy a private automobile, according to survey statistics.

He said that transit companies should be given priority in the consideration of the following: (1) fare adjustments to meet constantly expanding costs; (2) the removal of obsolete and unjust taxation, which no other business is required to pay; and (3) special priority in regard to the adjustment of traffic control so that public transportation will have some form of right of way on public streets.

On the eve of the meeting, Guy C. Hecker, executive manager of the ATA, had some interesting comments about the psychological effect of traffic congestion on motorists and pedestrians. He said rush-hour congestion had reached the point where the majority of motorists are virtually a mass of accidents looking for a place to happen. Hecker said that the vast majority of bus drivers and streetcar operators have skills and trained reactions up to 35 times faster than the average motorist, and that public transportation is therefore the safest of any form of transportation in the United States.

At the first general session on September 22nd, a panel discussion on traffic congestion conducted by W. Marshall Dale, president of the Indianapolis Railways, Inc., was followed by a question-and-answer period.

Traffic engineers from Houston, Atlanta, Denver, and Portland (Oregon) said city authorities must encourage greater use of mass transportation facilities, such as busses and subways. Transit company officials said increased passenger volumes would help keep down fares, which have risen to 20 cents a ride in some cities, and threaten to go higher.

A regulatory point of view on transit problems was sounded by Commissioner Ray O. Martin of the Ohio Public Utilities Commission, who said that the number one job of regulatory authorities is "to provide service for passengers."

At the concluding session on September 25th, Harry W. Arnold, president, Ohio Rapid Transit, Inc., Columbus, was elected president, and Laurence Wingerter, president, San Antonio Transit Company, vice president. John E. McCarthy, president, Fifth Avenue Coach Company, New York city, was re-elected for a second term as ATA treasurer.

Alabama

Out of Transportation

THE Birmingham Electric Company finally got out of the streetcar business last month.

After several years of dickering, the city and company reached an agreement on old streetcar line rights of way. The company agreed to turn them over to the city if the city would maintain them.

Beco already has paved over abandoned lines. A similar agreement was reached between the company and the city more than a year ago, but the papers were lost. The loss was discovered a couple of months ago when Beco wrote to ask what happened to the agreement. The plan recently approved was then drawn up.

California

To Study CVP Purchase

THE State Water Project Authority agreed recently to employ a staff of twenty-nine persons for an "inquiry" into the feasibility of state purchase of the $350,000,000 federally built and operated Central Valley project.

In approving creation of the new bureau within the State Division of Water Resources, authority members made it plain they were not endorsing state purchase now or in the future. But just in case the authority had any idea one way or the other, spokesmen for groups representing both sides were present and stated their positions.

Their testimony was indicative of the wide, and sometimes bitter, differences of opinion that prevail among fellow Californians on the handling of the state's water and power problems.

State Controller Thomas A. Kuchel, a member of the 5-man authority that would operate the CVP if the state takes it over, made the motion approving the new employments, but he also referred to the plan as an "inquiry" and not a policy decision.

Bond Proposition Approved

A BONDING proposition for further rehabilitation of the San Francisco Municipal Railway finally was cleared by the board of supervisors last month for a place on the November election ballot, but not without considerable debate.

Board members took issue with the language of a ballot argument which is being sent to voters seeking their support of the $6,620,000 in bonds. The argument had been prepared by the railway management. Statements in the argument were challenged as "misleading."

One supervisor, critical of the management, questioned the statement that new equipment and other improvements, to be financed out of the bonds, would effect an operating saving of $650,000 annually. "If this bond issue is passed," he said, "a property tax subsidy would be needed to pay for bond servicing costs."

Connecticut

State Wants to Handle Own Resources

CONNECTICUT industrialists and utility operators joined recently in a plea that the Federal government leave them alone and let Connecticut run its own programs for conservation of natural resources, particularly water power.

At a public hearing in the State Capitol the local businessmen urged the New England-New York Inter-Agency Com-

mittee to keep the Federal projects away. They suggested that the time has come for the Federal government to start thinking of ways to save money and stop looking for ways to spend it.

During the all-day session, the committee, which is comprised of representatives of various Federal agencies concerned with conservation, heard much testimony designed to show that Connecticut is well off as far as natural resources are concerned.

Attorney for the Connecticut Manufacturers Association urged the reduction of Federal spending. "You should stop looking for ways to spend money," he said. "We think we will be better off if left to our own resources and if our own resources are left to us."

The committee was also warned by the Connecticut Public Expenditures Council that its final recommendations will be studied carefully from the taxpayer's viewpoint. A statement from the council's director urged that the Federal government keep all projects to an "absolute minimum" and leave much of the conservation and development work up to the states and towns.

S. R. Knapp, president of the Connecticut Light & Power Company, cited as proof of the intentions of the planners, a letter of President Truman's to Senator Russell (Democrat, Georgia), favoring the development of power pools throughout the nation. He said its thought resembles ideas on industrial socialization expressed by Stephen Raushenbush, ex-Interior aide.

The committee planned to hold other hearings on the same subject in the New England area before making its final report and recommendations.

Ruling Favors Pipeline

THE Algonquin Gas Transmission Company was authorized recently by the state public utilities commission to construct its natural gas pipeline under town highways in Danbury. Town officials took immediate steps to appeal the ruling to the superior court.

The commission ruling paved the way for the completion of the pipeline in Connecticut. All but ten miles of the line, this in the Danbury area, has been laid. Much of the remaining work has been delayed because the company did not have permission to go under town roads.

The town's appeal will contend that the commission cannot have jurisdiction to grant such a permit under the Connecticut general statutes.

District of Columbia

Vote Ruled Illegal

THE Capital Transit Company must hold another election for semi-supervisory employees, because the company president wrote a letter which prevented a free choice of a bargaining agent in an election on March 13th, the National Labor Relations Board directed recently.

In secret balloting the employees voted 102 to 81 against joining Division 689, Amalgamated Association of Street, Electric Railway, and Motor Coach Employees, AFL.

Florida

Turns Down REA Proposal

THE Florida Road Board last month formally turned down a proposal of the Rural Electrification Administration to extend service into northern Florida.

The federally sponsored power group sought to use highway rights of way for

extending lines from Georgia to Florida. The road board deferred action last July, but last month it rejected the application.

The road board's rejection followed after it was assured that Florida-manufactured power was available for the area.

Chief objection to the area branch—the Okefenoke Rural Electric Membership Corporation of America—was that it would bring federally subsidized power in competition with power produced in Florida.

The board was assured of adequate service by the utilities commissioner for the city of Jacksonville and the Florida Power & Light Company.

Georgia

Electric Rates Raised

SAVANNAHANS will pay 25 cents more per month for electricity in their homes beginning October 1st. The state public service commission recently approved a rate increase for the Savannah Electric & Power Company.

Regardless of the amount of power used, the company can increase the residential bills a flat 25 cents per month; all commercial bills a flat 35 cents a month; and water-heating rates 20 cents a month.

The company had asked increases ranging upward to 68 cents for homes, $1.68 for commercial, and 20 cents for water heating.

The increases will produce an additional $161,539 in revenue for the company, a rate expert for the commission said. The commission turned down the company's request for a $50,000 increase in industrial rate revenues.

Idaho

Higher Rates Granted

THE state public utilities commission last month authorized the Idaho Power Company to increase electric rates by about 11 per cent. The new rate schedule is designed to bring in an additional $1,910,414 each year, of which the company will retain approximately $883,700 after taxes.

The commission denied any increase in the Salmon area. Idaho Power had asked a higher rate in that area, contending that distribution cost was higher because of the necessity of leasing transmission lines from Utah Power & Light Company and Montana Power. Current rates in the Salmon area are about what the new statewide rate will be.

Street-lighting and irrigation-pumping services were not included in the rate adjustment, although the commission said these rates are subject to later review.

This is the first time Idaho Power has asked a rate increase since its formation in 1916. The commission said the new rates will provide the company a 5.68 per cent return on its investment.

Kentucky

Order Eases Gas Heating Restrictions

THE state public service commission recently eased its restrictions on sale of gas for heating purposes to fill the needs of all present applicants in northern, central, and eastern Kentucky.

Announcing its action following a public hearing, the commission said the loosening up was made possible by more gas having been stored and by the fact that 50,000,000 more cubic feet of gas already is coming in from the Texas fields. An additional 20,000,000 cubic feet will be made available from there by next December.

The area covered by the order, which applies to both residential and commercial users of gas for heating, is that served by the Union Light, Heat & Power Company in northern Kentucky, by the Central Kentucky Natural Gas Company, and by United Fuel Gas in eastern Kentucky. The Central Kentucky Natural Gas Company serves both wholesale and retail customers and in its case the order covers both types.

Regulatory Changes Sought

A GENERAL revision of Kentucky's laws and regulations affecting public utilities is being sought by the Kentucky Municipal League.

Through a resolution adopted last month at its annual meeting in Cumberland Falls, the league asked the State Legislative Research Commission to include such laws and regulations in its current study of state-city relations.

Specifically asked were recommendations on what changes would be needed to assure "proper service at fair and reasonable rates, and equal, effective, and systematic protection of both investor and consumer interests."

Maryland

Would Remove Sales Tax

SURPLUS state funds in Maryland should be used to remove the state sales tax from gas and electric bills and fuel, State Delegate Lankford, Anne Arundel Democrat, declared in a letter read to the state legislative council last month.

Lankford said that, if possible, the tax should be lifted retroactively so the exemption would cover the coming heating season.

In opposing surplus financing of the state government, Lankford contended that the sales tax, as the state's most recently imposed levy, should be amended and the 2 per cent tax lifted from "necessities or near necessities."

Michigan

Gas Rate Hearing

THE Michigan Consolidated Gas Company was scheduled to resume its fight for a $7,100,000 rate increase on October 7th before the state public service commission. Chairman of the commission said the date was fixed to enable the company to present records through September 30th showing operation under increased costs of wholesale gas.

Previous hearings ended in disagreement over the effect of conditional wholesale gas rate price boosts by Michigan-Wisconsin Pipe Line Company and Panhandle Eastern Pipe Line Company. Both suppliers are collecting wholesale increases from Michigan Consolidated under bonds pending a decision on their cases by the Federal Power Commission.

Increased Fare Approved

A FARE increase to 20 cents from 15 cents was approved by the Detroit Street Railway Commission, which operates the city's busses and streetcars. The new fare, effective September 22nd, is expected to bring in an extra $5,300,000 a year.

New ticket rates will be 10 for $1.75, equivalent to 17½ cents a ticket. Express fares also went up a nickel.

Together with a fare increase, the commission also approved a 10-cent-an-hour pay raise for 2,800 bus and street-car operators.

New York

Lighting Costs to City Increased

CHARGES for power to light New York city streets and public buildings will increase $1,945,944 a year as a result of a new contract negotiated between the city and the Consolidated Edison Company, it was disclosed recently by the commissioner of water supply, gas, and electricity.

He said that the contract, which is subject to approval by the board of estimate, also provides for purchase by the city for $1,327,000 of street-lighting equipment which the city has been renting from the company at $427,500 a year.

Power for lighting in Staten Island will be provided, under the contract, by Consolidated directly instead of by its subsidiary, the Staten Island Edison Company, at a $56,031 saving to the city.

The company had sought an increase of $2,500,000 a year for power supplied the city as a result of rate increases recently approved by the state commission. The city had been paying $12,920,428 a year for power.

Washington

Directors Favor Sale

DIRECTORS of the Puget Sound Power & Light Company decided last month to recommend to stockholders acceptance of the offer of six public utility districts to buy the bulk of Puget Sound's properties for $89,490,000. Company President Frank McLaughlin announced that the recommendation would be submitted to a stockholders' meeting, probably in late October.

Mr. McLaughlin said it was the firm conviction of the directors that the offer "represents the best solution of the critical power problem in the company's territory, in that its objective is an assurance of adequate and reliable electric service at the lowest possible rates on a home-rule basis. At present the well-being of the people in the area served by the company is being jeopardized by a critical power shortage and another brownout is threatened."

If the offer is accepted, the county districts plan to issue $107,000,000 in revenue bonds for the purchase and other financing.

The districts involved are Chelan, Snohomish, Skagit, Thurston, Kitsap, and Jefferson. It previously had been planned to include the Whatcom PUD in the deal, but that county's power district plans to act separately in acquiring the private company's properties there.

All personnel employed by the company on the closing date, except executive officers, are to be retained by the buying districts and qualified under a pension plan, Mr. McLaughlin said. Provision is also to be made for the continuation of pensions to retired employees.

The PUD representatives expressed belief that "we have made you an offer which is entirely fair to your company and to all persons interested in it, including your stockholders and employees."

The PUD representatives added, however, that if the company refused the offer, "we owe a duty to the people who elected the commissioners of our respective public utility districts to carry out their mandate by immediately proceeding with condemnation of your properties—a method of acquisition which you will have forced upon us despite our constructive attitude."

Progress of Regulation

Electric Rates May Not Be Based on Present-day Dollars

THE Massachusetts commission authorized a smaller electric rate increase than that requested. The company's composite cost of capital under a proper debt structure would be no less than 5.825 per cent. The commission held that the company must be allowed to realize a return of this amount on its investment in order to enable it to maintain its credit and to attract new capital.

The commission refused to apply this percentage of return to a rate base computed on "present-day dollars" or "trended to present-day costs." It used the company's actual investment as it appeared on its books. The commission said it was aware that any utility would be delighted to use a figure other than original cost under present-day conditions. It said, however, that Massachusetts, where the concept of original cost was evolved at so early a date, should not be among the first to abandon it without more cogent reasons than appeared in this case.

No allowance was made for cash working capital. The company's cash requirements for working capital were adequately met out of funds provided by the ratepayers in advance of Federal income tax and municipal property tax payments.

The company furnished a statement of its actual results for the past year, adjusted to reflect current wage, fuel, and other costs. This analysis was considered particularly significant since it applied to known operating results and known factors of cost. Among the adjustments contained in this statement was a provision for depreciation accruals at the rate of 3 per cent in place of the 2.75 per cent currently being accrued. The higher rate is that allowed under Federal tax regulations. The commission said that as a matter of general principle, so long as there is what it considers to be an adequate provision for depreciation, it is not inclined to question the determination of management.

The company was an operating company in a holding company system. It urged that the credit resulting from the use by its parent company of a consolidated income tax return should not be considered in computing subsidiary net income for rate-making purposes. This argument was rejected, although the commission conceded that there was something to be said for the approach. The theory of the consolidated return credit is that these corporations are under common ownership and could possibly merge into a single operating unit, and hence should be taxed as though such merger had been accomplished.

If the holding company system chose to merge, the consumers in the areas involved would jointly fall heir to this tax saving in a rate proceeding. The commission concluded, however, that if the holding company, for its own purposes, wished to maintain the separate corporate identities of its subsidiaries, the convenience of so doing should not carry with it the additional windfall of the tax return credit. The commission said that until it is otherwise instructed by the courts, it intends to continue to compute the earnings of this and any other con-

stituent companies on their position after consolidated tax return credit.

The company furnishes current to a municipal plant and street-lighting service to another municipality under contract. The commission did not believe that the company could serve these municipalities at the present contract prices and make a reasonable profit. The company's financial situation could be materially improved by renegotiating the contracts. Consequently, the commission felt justified in holding the company to a bare minimum of earnings. A municipal government, it said, must be considered strictly as a customer of the electric utility. The fact that the taxpayers upon whom the burden of municipal costs falls are in large measure also individual customers of the company does not permit service to the municipality except at fair and reasonable rates. *Re Cambridge Electric Light Co. DPU 9781, August 1, 1952.*

Acquisition of Utility Property Disapproved Because of Faulty Financing

THE Connecticut commission denied an application for authority to acquire water company properties solely because of an unfavorable method of financing. The purchaser's fitness and ability to serve, as well as his financial responsibility, was admitted. Local ownership and operation would be of greater advantage to the customers and residents of the area than the present absentee ownership and operation.

The purchaser proposed to finance the acquisition by means of a purchase money mortgage. This was considered inconsistent with the public interest. That form of encumbrance would tend to open the door to abuses which generally would far outweigh any advantage that might arise in this particular case. The commission said that it has the solemn obligation to insure a sound financial structure for all utilities under its jurisdiction. Concerning the proposed financing, it said:

> At the very outset of its new operation, it is adversely involving its capital structure and retarding the attraction of further capital on favorable terms. It is burdening its revenue and earnings with an initial obligation that might well swing the pendulum of favorable and successful operation to unsuccessful and unfavorable operation, and by so doing, either make for inadequate service or for increased rates. Thus, the effect on the public interest.

Re Plainfield Corp. Docket No. 8702, August 14, 1952.

Filed Tariff Exempts Telephone Company from Liability for Directory Omission

THE appeal of a detective agency from dismissal of an action for damages against a telephone company because of the omission of the agency's name and one-inch advertisement in the telephone directory was dismissed by the California District Court of Appeals.

The company's defense to the action was the following regulation filed with the state commission and recited in contracts with advertisers:

> In case of error or omission of the advertisement by the company, the extent of the company's liability shall be limited to a pro rata abatement of the charge paid to the company as the error or omission may affect the entire advertisement.

The court cited the case of Riaboff *v.* Pacific Teleph. & Teleg. Co. (1940) 39 Cal App2d 775, 34 PUR NS 19, as an exact parallel of the case at hand. In that

case the company had misspelled the advertiser's name, with the result that it did not appear in the proper place in the directory. However, in that case the company regulation was incorporated into the contract with the advertiser by reference and by operation of law, while in the case at hand the company had gone further and expressly recited the limitation of liability rule in its contract.

When such a regulation is filed with the commission, the court ruled, and either referred to or recited in an advertising contract, its provisions, if reasonable, are binding upon the parties to the contract.

In explaining why it did not consider the rule unreasonable, the court made the following statement:

> The theory underlying these decisions is that a public utility, being strictly regulated in all operations with considerable curtailment of its rights and privileges shall likewise be regulated and limited as to its liabilities. In consideration of its being peculiarly the subject of state control, "its liability is and should be defined and limited." (Correll *v.* Ohio Bell Teleph. Co. (1939) 63 Ohio App 491, 32 PUR NS 82.) There is nothing harsh or inequitable in upholding such a limitation of liability when it is thus considered that the rates as fixed by the commission are established with the rule of limitation in mind. Reasonable rates are in part dependent upon such a rule.

Finally, the detective agency contended that a rule exempting a party from liability for its own negligence is void because contrary to public policy. The court pointed out that the cases relied on to support this contention are not pertinent, since none of them related to tariff regulations on file with the commission. *Cole v. Pacific Teleph. & Teleg. Co. July 25, 1952.*

Subsidiary Common Stock Distributed to Holding Company Stockholders

THE Securities and Exchange Commission conditionally approved a plan to distribute common stock of Washington Water Power Company to American Power & Light Company stockholders. Previously the holding company had unsuccessfully sought to sell the subsidiary's properties to public utility districts. The plan was considered necessary since it appropriately provided a major step to comply with a dissolution order. Since the holders of the holding company's capital stock were the only persons affected and would receive a pro rata distribution, there was no question as to the fairness of the plan.

A request that the new board of directors of the subsidiary be named by the president of that company rather than by the holding company was rejected. Upon distribution of the subsidiary's stock, the holding company's stockholders would merely acquire direct ownership of the stock in place of the present indirect ownership. Since the board of directors of the holding company has been duly elected by these stockholders, it was deemed appropriate for the holding company to submit the list of directors to take office initially. Representative groups of security holders should be consulted by the holding company in selecting the list of directors, however. The initial board should include appropriate local representation.

Changes in the subsidiary's charter to permit alteration in the composition of the board of directors by a majority rather than by two-thirds vote of the stockholders was required. The commission said that it has been its consistent practice over the years to insist that at least a majority of the members of the initial boards of directors of companies being divested by a holding company should be persons who are not officers, counsel, employees, or persons otherwise retained by the company.

It found no justification for imposing a provision preventing removal of the directors by less than a two-thirds vote of security holders as proposed. That provision, it said, did not relate to the rights and protection of the minority interests and a fair and equitable distribution of voting power.

The commission did require, however, a two-thirds vote of the outstanding shares of voting stock to amend the proposed articles of incorporation relating to cumulative voting, limited pre-emptive rights, the number of directors, and the entry in the capital stock account of proceeds from the sale of no-par value stock.

This proposal was deemed consistent with standards previously applied and designed to prevent the removal of the related protective provisions against the wishes of a substantial minority of the voting stock. *Re American Power & Light Co. File Nos. 54-203, 54-168, 59-12, Release No. 11301, June 5, 1952.*

Laying of Natural Gas Pipelines in City Streets Subject to Town Board Approval

THE Connecticut commission authorized a natural gas transmission company to make excavations in town highways for the purpose of laying pipelines. The town had refused to grant a permit. The petition was presented to the commission under a statute providing that any company aggrieved by the refusal of the proper municipal authority to authorize the laying of natural gas pipelines in city streets may appeal to the commission to determine whether the permit should be granted.

The town claimed that a town meeting, rather than the board, had the power to issue such permits. The commission held this to be erroneous and contrary to law. The applicable statutes clearly state that an application for authority to make an excavation in a portion of a public highway by a public service company shall, "if required by the authority having jurisdiction over the maintenance of such highway," be made to such authority. The body having jurisdiction over the maintenance of the highways in a town in which there is no specifically appointed superintendent of highways is the board of selectmen.

The town argued further that the board could not give a permit to open streets because that would constitute a conveyance of interest in land owned by the towns people and properly the function of the towns people expressed through a town meeting only. The commission held that the company's application required only a permit for opening and not a right of way or easement. In fact, it was considered doubtful that the town could convey any greater interest.

The commission said that the granting of permits for excavation and laying of utility lines is something entirely different from a conveyance of right of way or interest in land. It is similar to a licensing authority and is the exercise of the police power of the state. This power was held to have been delegated by the state legislature to the town authority having jurisdiction over the maintenance of the highways, which in this case was the board. Consequently, the board was held to be the proper body before which to bring the request for permits for the laying of natural gas pipelines.

The commission found that any delay in construction of the pipeline which would provide a means of alleviating a critical gas shortage would react against the public interest and constitute an aggrievement not only to the natural gas pipeline company but also to the gas-distributing companies and to the consumers. It took administrative notice of the large expenditures by the distributing companies made for the purpose of constructing facilities to bring the natural gas from the pipeline to the distribution systems. The delay in bringing natural gas to these companies would increase their costs if they must continue to dis-

tribute the more expensive manufactured gas, while at the same time bearing the burden of servicing the carrying charges on the additional capital required to finance the expansion and conversion of facilities needed for the use of natural gas. Any further delay was, therefore, held to be contrary to the public interest. *Re Algonquin Gas Transmission Co. Docket No. 8716, September 12, 1952.*

Acquisition of Gas Facilities of Subsidiaries Approved

THE Federal Power Commission authorized a gas company to acquire and operate all of the facilities of several subsidiaries under a merger plan. The application was made pursuant to § 7 of the Natural Gas Act and had been previously approved by the Pennsylvania state commission.

The company proposed to render all of the services "in exactly the same manner as they are previously being operated and rendered." The application further stated that the proposed merger was for the purpose of achieving greater efficiency and economy in the operation of its facilities, to effect a tax saving, to enable its stockholders to hold directly their investment in properties of the subsidiary companies and to remove the parent company from the status of a holding company.

The proposal did not involve the sale of any additional securities but provided that all securities issued were to be exchanged for outstanding securities of subsidiary companies.

The commission ruled that the present and future public convenience and necessity permit the abandonment of facilities and operations by the subsidiary companies and their acquisition by the parent company. *Re Allentown-Bethlehem Gas Co. et al. Docket No. G-1910, September 3, 1952.*

Emergency Telephone Rate Increase Denied

A TELEPHONE company's petition for an emergency rate increase, pending action on its application for a permanent rate increase, was denied by the Indiana commission. Existing rates yielded a return of at least 4 per cent during the past year. The commission did not deem such a return so inadequate so as to jeopardize the company's ability to render adequate service.

That a utility's rate of return is less than 6 per cent does not of itself justify the granting of an emergency rate increase, according to the commission. The company's last rate increase had been suspended with respect to some of the exchanges due to inadequate service. The commission said that a company seeking a rate increase should improve its system so that satisfactory service could be given. The commission, in citing the statute requiring utilities to furnish reasonably adequate service, said that it did not believe the legislature intended to make any distinction between an emergency rate increase and a permanent rate increase in so far as either type is related to reasonably adequate service.

The commission considered not only the provisions of the law applicable to original and ordinary rate cases, but also to the provisions commonly known as the emergency section of the utility act. The basis upon which the company sought emergency relief was merely that because of increased operating costs, it would sustain a reduction in income before the final hearing on its original petition. This was not considered such an emergency as would invoke commission jurisdiction under the emergency section of the statute. The commission pointed out that it would set the original petition for hearing within a reasonable time.

Commissioner Abbett, in a dissenting opinion, said that the majority opinion's

finding "that a rate of return above 4 per cent was not so inadequate as to jeopardize the company's ability to render reasonably adequate service," might be a fair statement provided the company was not in a period of expansion and reconstruction necessitating the keeping of earnings at a substantial level in order to attract capital and accomplish the purpose for which it was organized. He thought that the majority opinion seemed to hold that the company should bankrupt itself in this rehabilitation before coming to the commission for emergency rate relief. *Re General Teleph. Co. of Indiana, Inc. No. 23505, July 29, 1952.*

Gas Rate Increase Should Provide for Removal of Existing Inequities

THE Michigan commission postponed any decision on a gas company's application for a rate increase pending submission of operating results and a depreciation study, notwithstanding the fact that the wholesale cost of gas to the company had been increased.

The company proposed to increase its space-heating rate in the same proportion as the wholesale cost of gas had been increased by its supplier. The commission refused to allow such an increase because of inequities in the existing rate structure. The inequities, the commission said, should be removed from any new rate and the company's increased revenue need should be provided for by the apportionment of the increased costs to the corrected rates.

As support for this holding the commission cited its ruling in an earlier case in which it held that one of the purposes of a rate adjustment, where one appears necessary, should be the reduction or removal of inequities appearing in a utility's price structure. *Re Michigan Consol. Gas Co. D-3430-52.3, July 28, 1952.*

Commission Refuses to Discontinue Weekly Bus Pass

THE District of Columbia commission rejected a proposal of the Capital Transit Company to discontinue its weekly pass, charge a 17-cent cash fare, 3-cent school fare, and a token fare of six tokens for 95 cents. The company indicated that the principal reason for its need for increased revenues was an agreement which it had entered into with its employees which provided for a wage increase of 5 cents per hour on July 1, 1952, and another 8 cents per hour on November 1, 1952.

The commission conceded that the company was in need of additional revenues. The principal point of difference between the commission and the company was on the matter of the weekly pass. The company recommended its discontinuance because of the fact that it was not compensatory at $2 or under and was not used by a large enough percentage of the public when its cost exceeded $2. The commission summarized its position on the pass in this statement:

> The revenues from weekly pass sales presently amount to about 32 per cent of total District of Columbia passenger revenues, indicating to the witness that there is still a substantial popular demand for the pass.
>
> Furthermore, the commission witness pointed out that the pass still has the advantage of speeding up service. This is beneficial to both the riders and the company.
>
> The commission, from time to time, has shared the doubts of the company as to the wisdom of retaining the weekly pass in the fare structure for the District of Columbia. However, the record in this proceeding indicates that the advantages of the pass still outweigh any disadvantages that might attach to its use. In view of this fact,

the commission finds and concludes that the interest of the public requires that, for the present, the weekly pass be retained.

The commission found that a fair rate of return should fall within 6½ and 7 per cent of the company's rate base. A rate schedule providing for a 17-cent cash fare, five tokens for 75 cents, a school fare of 3 cents, and a weekly pass at $2.40 was approved subject to the condition that if such a schedule should provide more than a 7 per cent return, the excess should be set aside in a special reserve for commission disposition. *Re Capital Transit Co. PUC No. 3522, Formal Case No. 417, Order No. 3913, August 21, 1952.*

Other Important Rulings

THE Maryland commission authorized two interstate motor carriers, operating between Baltimore and the state's eastern shore, to use the newly constructed Chesapeake bay bridge because such action would not bring any new carriers into the area or allow any extension of routes or services, but would merely allow a continuation of service by what is considered a better route than now used. *Re Preston Trucking Co. Case Nos. 5143, 5228, 5224, 5241, Order No. 49430, August 15, 1952.*

An electric utiilty was authorized by the Michigan commission to incorporate in its regulations a provision that all energy is sold subject to the prior claim of the United States government for service. *Re Edison Sault Electric Co. D-2962-52.2, July 21, 1952.*

The California commission granted a water company, rather than a municipal plant, authority to extend service beyond city limits where quantity rates for service by the municipal plant outside city limits were higher than the company's proposed rates and it was evident that under company operations consumers would be provided with channels of regulation for the adjustment of complaints which they would not have as nonresident consumers of the city's system. *Re Lakewood Water & Power Co. Decision No. 46890, Application Nos. 32942, 33046, March 25, 1952.*

The Georgia commission refused to allow appraised values in determining a telephone company's rate base and held that original cost of plant and equipment, less accrued depreciation, was proper. *Re Consolidated Teleph. Co. File No. 19324, Docket No. 336-U, June 9, 1952.*

The Washington commission held that it is in the interest of the shipping public to maintain a parity between intra and interstate motor carrier rates so that no disadvantage will exist as to one group of shippers over another. *Re Pacific Inland Tariff Bureau, Cause No. T-8788, August 1, 1952.*

A New York court held that a railroad was not obligated to repair and maintain a roadway to a bridge carrying a street over a railroad constructed in 1937 to replace a bridge constructed before July 1, 1897, because the statute providing that the railroad had the obligation to maintain roadways of bridges constructed prior to July 1, 1897, did not apply since the bridge was actually constructed in 1937, and maintenance and repair fell within the present-day policy of municipal responsibility. *Mount Vernon v. Feinberg et al. 113 NYS2d 534.*

The Wisconsin commission held that a city council is free to make assessments against abutting property owners for water main construction but such authority must be found in the statutes and cannot be increased or decreased by the filing of rules with the commission, voluntarily or under the compulsion of an order. *Morris v. De Pere, 2-U-3630, May 22, 1952.*

The Georgia Supreme Court held that

commission rules were not state laws within the constitutional provisions conferring upon the court jurisdiction to determine the constitutionality of a state law. *Carter et al. v. Bishop, 71 SE2d 216.*

The New Jersey commission held that proposed water rates that would yield a return of 7.18 per cent were excessive and modified such rates so that a return of 6 per cent would be realized. *Re Somerville Water Co. Docket No. 6359, August 6, 1952.*

The Wisconsin commission, in granting a railroad authority to discontinue certain passenger train service, held that the railroad's charter is subject to the reserve power of the state Constitution, which provides that all general laws or special acts enacted under the provisions may be altered or repealed by the legislature at any time after passage. *Re Chicago, M. St. P. & P. R. Co. 2-R-2463, August 6, 1951.*

The Virginia Supreme Court of Appeals held that a railroad was not entitled to a motor carrier certificate for auxiliary and supplemental service where the proposed route was served reasonably and adequately by existing carriers. *Seaboard Air Line R. Co. v. Commonwealth, 71 SE2d 146.*

The Kentucky Court of Appeals held that the Department of Motor Transportation was not required to give notice to existing carriers of any inadequacy of service before hearing an application for a motor carrier certificate. *Department of Motor Transp. v. Eck Miller Transfer Co. 249 SW2d 802.*

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PUBLIC UTILITIES REPORTS

ARKANSAS PUBLIC SERVICE COMMISSION

Re Southwestern Bell Telephone Company

Docket No. U-462
June 20, 1952

PROCEEDING *to comply with mandate of supreme court of Arkansas under which Commission was directed to approve rate schedule yielding prescribed revenues; increased rates prescribed. For supreme court decision, see (1952) 94 PUR NS 214, 247 SW2d 474; for earlier Commission decision, see (1951) 87 PUR NS 97.*

Rates, § 209 — Telephone company — Statewide basis.

1. The statewide method of fixing telephone rates was adopted in preference to the exchange method, p. **4.**

Rates, § 135 — Reasonableness — Comparisons.

2. The fact that telephone rates in other states are lower is not entitled to much weight in a rate case where no basis for comparison with rates in other states has been laid, p. **7.**

Discrimination, § 157 — Telephone rates — Separate exchanges.

3. That larger telephone exchanges paid higher flat rate charges for monthly service than other exchanges did not render rates discriminatory where the cost per call was virtually the same in the larger exchanges as in all other exchanges and where the calling rate per telephone was substantially higher than in the larger exchanges, p. **7.**

Rates, § 544 — Telephone rates — Business and residential service.

4. Telephone rate schedules which favor business customers at the expense of residential users, and more particularly at the expense of the 4-party and rural residential telephone users, violate the fundamental principle of rate making, since lower rates for residential service promote maximum usage and development and thereby increase the over-all value of telephone service, p. 8.

Rates, § 561 — Telephone rates — Four-party residential service.

5. Telephone rates for a 4-party residential service should be held as low as is consistent in order to have service available within the ability of lower income groups to pay, p. 8.

Reparation, § 42 — Distribution of refunds — Interest period.

6. A telephone company required to refund overcharges which were collected pending appeal from a rate order should be required to pay interest on the overcharges only from the dates of their payment to the date repayment is tendered, where the additional revenue allowed to the company by way of increased rates has been fixed by the court on appeal and where the Commission, upon remand of the case, has finally approved a schedule of rates yielding the revenues allowed by the court, since a further appeal from Commission approval of the rate schedule yielding the allowed revenues would preclude the company from making the refunds until that appeal might be determined, and the company could no longer be considered as wrongfully withholding money, p. 9.

APPEARANCES: V. O. Purvis, Jr., Chief Engineer, and M. E. Michell, Chief Accountant, for the Commission; O. D. Longstreth, Jr., City Attorney, and Joseph Brooks, Assistant City Attorney, for the city of Little Rock; Harrell Harper, City Attorney, for the city of Fort Smith; Kaneaster Hodges, City Attorney, for the city of Newport; Marshall M. Little, City Attorney, for the city of Benton; Thad Tisdale and J. K. Shamburger, Attorneys, for certain Little Rock subscribers; Blake Downie, Edward L. Wright, and Ronald J. Foulis, Attorneys, for Southwestern Bell Telephone Company.

Order

BY the COMMISSION

History of the Case

Southwestern Bell Telephone Company, hereinafter sometimes referred to as the "Company," on August 21, 1950, filed with this Commission its schedules of increased rates for exchange, miscellaneous, and toll telephone services in the state of Arkansas. After suspension of such rates by the Commission, the Company posted its bond and placed the new rates in effect on September 21, 1950. After hearings the Commission issued its order of January 20, 1951, 87 PUR NS 97, which allowed the Company annual increases in revenues of $3,605,000 instead of $4,600,000 which the new schedules were estimated to produce, and on February 22, 1951, approved and ordered into effect a schedule of rates which would produce $3,605,000, together with a concurrent plan of refund of overcharges. Upon appeal by intervening cities, followed by a cross-appeal by the Company, the orders of the Commission were sustained by the Pulaski circuit court. Upon appeal to the supreme court of Arkansas [(1952) — Ark —, 94 PUR NS 214, 247 SW2d 474], the judgment of the Pulaski circuit court was affirmed in every respect except (1) the time of fixing the Company's rate base was changed from December 31, 1950, to September 30, 1950, and, accordingly, (2) the amount of increase in rates allowed the Company was reduced to $3,177,000 and the cause is now before

us again upon the mandate of the supreme court as transmitted to us by the Pulaski circuit court on April 25, 1952.

On April 28, 1952, the Commission issued and served upon the Company and the cities of Little Rock and Fort Smith an order setting hearings in compliance with the mandate, starting May 5, 1952. On that day the Commission denied applications of Little Rock and Fort Smith for subpoenas duces tecum which will be discussed hereinafter. The Company then filed its proposed schedule of rates to produce $3,177,000 annually over the rates in effect prior to September 21, 1950, and its proposed plan for refunding the difference between such new rates and the rates which have been collected since September 21, 1950. Thereafter the cities of Little Rock and Fort Smith moved for continuance of the proceedings in order that other affected cities might have an opportunity to present their contentions as to the proposed schedules and plan of refund. This motion was granted and on May 5, 1952, the secretary forwarded to each municipality served by the Company a copy of an order setting hearings for May 9, 1952, with the Company's proposed schedule of rates and plan of refund attached.

On May 9, 1952, second applications for subpoenas duces tecum filed by the cities of Little Rock and Fort Smith were overruled and will, like the first applications, be discussed hereinafter. The Company then introduced testimony in support of the proposed schedule of rates and its proposed plan of refund, and its witnesses were cross-examined. The hearings were then recessed in order that the cities of Little Rock and Fort Smith might examine the Company's records. On May 16, 1952, hearings were resumed and the cities of Little Rock and Fort Smith requested, and were granted, the right to further cross-examine the Company's witnesses. The cities had employed Douglas Walker, certified public accountant of Fort Smith and formerly chief accountant for the Arkansas Public Service Commission, to examine the schedules and the Company's records. Mr. Walker was present at the hearing, acted as consultant for the cities, and participated in the cross-examination of the Company's witnesses. The cities offered no testimony in opposition to the schedule of rates proposed by the Company.

The Issues

The purpose of this hearing is to comply with the mandate of the supreme court of Arkansas under which this Commission was directed to approve a schedule of rates which would yield to the Company an increase of $3,177,000 of additional annual operating revenues instead of the $3,605,000 in additional revenues originally authorized by this Commission. The mandate also directed the Commission to allow the cities of Little Rock and Fort Smith an opportunity to be heard before any schedule was approved, in order that they might present their contentions that their rates should be revised downward. The mandate further directed the Commission to order appropriate refunds of the excess amounts paid by the Company's customers, with interest upon such amounts at 6 per cent per annum from the time of the overpayment until time of repayment.

The Company's Testimony

D. E. Barbee, commercial engineer for the Company, testified in support of the new schedule of rates which the Company had filed May 5, 1952. As to toll rates he testified that the Company proposed to continue in effect the schedule of toll rates which was filed August 21, 1950, and which has been in effect since September 21, 1950. The exchange, service connection, moves and changes, and toll schedules were designed by Mr. Barbee to yield an increase in the aggregate of approximately $3,177,000 in annual operating revenues.

Mr. Barbee testified that the exchange rates have been fixed in accordance with the statewide or grouping method of rate making, as opposed to the so-called exchange method of rate making.

Mr. R. A. Moran, accounting supervisor for the Company, testified that the Company's books and records pertaining to the Arkansas operations are all kept under his supervision at Little Rock. He testified that the records as to the Company's property, revenues, and expenses are kept only for the state as a whole, and are not broken down as to such records for individual exchanges. He described the methods by which the Company's books are audited, and the Company's statutory obligation to keep its records in accordance with the Uniform System of Accounts as prescribed by the Federal Communications Commission.

The various subpoenas duces tecum which we have mentioned hereinbefore, as filed by the cities of Little Rock and Fort Smith, sought (1) a breakdown of the Company's properties, revenues, and expenses within the municipal limits of Little Rock and Fort Smith, and (2) a breakdown of the Company's properties, revenues, and expenses for the Little Rock exchange (including North Little Rock, Rosedale, etc.) and for the Fort Smith exchange (including Van Buren, Barling, etc.). The applications were denied for the reason that the information sought was immaterial and of no relevance in this proceedings, since the Company's schedule of rates was prepared under the statewide method of rate making which this Commission approves. The applications were denied for the further reason that the Company's books and records are not kept in such manner as to make the information requested immediately available, and in order to obtain such information there would be involved months of expensive studies, analyses, and surveys. In order that the cities might obtain all available information in presenting their contentions and to determine whether the cities of Little Rock and Fort Smith were being subjected to any discrimination by the Company's proposed schedule of rates, the Commission directed the Company to allow the attorneys for the cities of Little Rock and Fort Smith and their representatives to examine the Company's records.

Findings

The "Statewide" Principle as Opposed to the Exchange Principle

[1] Since its order of March 24, 1936, in Docket No. 8, this Commission has been committed to the statewide principle of rate making. This system takes the Company's properties, revenues, and expenses for the state as a geographical and jurisdictional

unit, and fixes exchange rates which equitably distribute the charges for telephone service among the users. The other method of rate making, which is now seldom used, is the exchange method under which costs are determined for the operation in a single exchange and rates fixed to provide a return on the investment in that exchange.

In weighing the relative merits of these two methods, the Commission has considered which method will best serve the interests of the public in Arkansas.

Under its statewide method of rate making the Commission necessarily determines the total revenues required in the state in order to produce a proper rate of return upon the Company's investment in the state. In the instant case, of course, the amount of new revenues to be allowed the Company for its intrastate operations has been fixed for the Commission by the court. The revenue requirement is then translated into rate structures by the establishment of groups of exchanges, with a uniform rate level prevailing within each group. These groups are established by grouping together those communities having approximately the same number of subscribers. The grouping is based on the principle that the relative worth of the service in general varies with the number of subscribers who can be reached at the local service rates. Under this method of rate making equal rates are charged for relatively equal services throughout the state.

Our adherence to the statewide method is occasioned by the fact that we are enabled thereby to fix telephone exchange rates which consider the relative value of telephone service to the customer. We believe that equal rates should be fixed for equal service.

There are several factors which cause telephone service to have different values in different communities, and the general rule is that the larger the community the greater is the value of telephone service. First, in the larger community there are generally more telephones than in the smaller community, and the customer of the larger community has the privilege of calling and receiving calls from a great many more telephones than the customer of the smaller exchanges. Second, since the larger communities cover more area than do the smaller communities, the calls travel on the average a longer distance in the larger community, and the service is consequently of more value to the customer. Obviously, in a small town people live within walking distance of those with whom they wish to communicate, while in a large city communication without a telephone would often require a trip of some distance. Third, the calling rate is higher in the larger communities. For example, the average number of calls per telephone for Little Rock is 8.17 calls per day, Fort Smith 7.53, and the balance of the state outside these communities is 6.09.

In addition to the fact that the statewide method recognizes value of service, we find that it encourages maximum development and usage of telephone service, since the Company does not have to determine whether any particular project is profitable. For example, we do not believe that extension of rural telephone service should be solely determined on the basis of whether such rural service will

be profitable to the Company. Thus, if the Company's operations throughout the state in various cities, towns, and rural sections enables it to make a fair return upon its investment, at fair and equitable rates to all subscribers, we believe the purpose of regulation has been achieved.

Under this system, towns of comparable size pay the same rates, and this seems to us to be fair to all concerned. Particularly is this true where considering each of the towns as individual units for rate making, a different set of rates might be indicated for Town A over Town B because of different investment costs. Assume that both Towns A and B in 1940 were scheduled for dial conversion, and that Town B's dial conversion was completed at 1940 prices. Dial conversion for Town A, however, was necessarily postponed by war conditions, and its conversion was not completed until 1947, when costs were appreciably higher. If Towns A and B are of approximately the same size, certainly it would be unfair to the subscribers of Town A to be charged higher rates for comparable service merely because its plant was purchased and built at the postwar level of prices while Town B's was not.

Since rates would necessarily be based on the Company's costs in each exchange, the value of the service to the customer would essentially be disregarded and as a result rates might be at a higher level in a small exchange than in a large exchange. Relatively high rates in small exchanges would tend to impede the desirable maximum development of usage of telephone service. Furthermore, rates would be different in towns of comparable size, and in our view this would amount to discrimination in rates as between the customers in these towns.

Exchange rate making would necessitate requiring the Company to keep many more records and to make analyses of records which would result in greater expense and consequently a higher level of rates to the Company's customers. These additional records and analyses would serve no other purpose than to make it possible to fix rates by separate exchanges.

Since the Commission adheres to the statewide principle of rate making it does not require the Company to keep, and the Company does not need, for the operation of its business, records which reflect plant investment and expenses by separate exchanges. Even if such records were kept, a vast amount of time and work would be necessary in order to obtain meaningful exchange statistics. The time involved in making separations of plant and expenses for each exchange and the cost of doing the work was testified to by the Company accounting witness, Moran, who stated that it would take eight to ten months to make the studies.

Making rates which would provide a reasonable return on the investment in each exchange considered separately would necessitate frequent rate changes. Every serious wind storm or ice storm, or material addition to plant, or other factors affecting the Company's costs would require a change in rate levels with rates considered on an exchange basis. It would also necessitate the separate consideration by this Commission of rates in each exchange and this would result in a tremendous increase in the

work load of the Commission. This additional burden could not be maintained without a substantial increase in the Commission's budget and staff. This would also, in effect, result in a greater burden on the public in Arkansas, without concurrent benefits.

Statewide rate making has been followed in telephone rate cases for many years and in all but two or three states telephone rates are either made on the basis of the statewide method of rate making by direction of the regulatory body having jurisdiction over the subject, or the rates actually in existence and properly approved, as required by the law of the respective states, have been formulated on the statewide method of rate making. Wherever the question has been submitted to a court, the right of a regulatory body applying the statewide rate-making method in exercising its legislative function of rate making has been sustained. See New York Teleph. Co. v. Prendergast (DC NY 1929) PUR1930B 33, 36 F2d 54, 69; Michigan Bell Teleph. Co. v. Odell (DC Mich 1930) PUR1931B 192, 45 F2d 180; New York v. Feinberg (1952) 279 App Div 817, 92 PUR NS 143, 109 NYS2d 131. See also People ex rel. Public Utilities Commission v. Mountain States Teleph. & Teleg. Co. (1952) — Colo —, 94 PUR NS 278, 243 P2d 397.

Comparative Rates

[2] The contention has been raised that rates in Arkansas cities are high as compared with rates in other cities such as Dallas, Oklahoma City, and Houston. Conceding that some rates in some other cities may be lower than rates for Arkansas cities, and that evidence thereof is admissible, we are of the opinion that such factors are not entitled to weight in this proceeding. The sole issue here is whether the rate schedules proposed will produce the increases of $3,177,000, and whether they equitably distribute these increases over all the customers using the Company's services.

Furthermore, no basis whatsoever has been laid upon which we can compare rates in other states with rates in Arkansas. For instance, we do not know the revenue requirements of the other states, the status of rate litigation, the Company's costs of doing business in the other states, nor any other factor which we would need to know in order to make such a comparison. To make a valid comparison as between Oklahoma City and Little Rock, this Commission would virtually be forced to try a rate case involving the state of Oklahoma since Oklahoma makes rates upon a statewide basis. Furthermore, the cities, while suggesting that the Commission should compare Arkansas rates with those charged in other cities in the Company's territory, have made no effort to prove that there is any proper basis on which such comparison can be made.

Claim of Discrimination

[3] The cities of Little Rock and Fort Smith state that the rates proposed for their cities discriminate against the Company's customers in these cities. Although the cities, by their applications for subpoenas duces tecum, sought to obtain information which was not significant under the statewide method of rate making,

neither city has made any contention which is in disagreement with our conclusion that the statewide principle is the proper basis for making rates. We are unable to find any evidence of discrimination in the schedules filed by the Company. The cities introduced no evidence to show the existence of discrimination. On the other hand, the Company's proof showed that on the basis of use alone the rates charged were fair and equitable. As a test of its proposed rates, the Company showed in its exhibit, Barbee 2, that the cost per local call to its customers throughout the state was virtually uniform at a trifle over two cents per call. In other words, although the larger exchanges of Fort Smith and Little Rock pay higher flat rate charges for monthly service, their cost per call is virtually the same as in all other exchanges, since their calling rate per telephone is substantially higher. The Company also showed that in order to reduce the proposed rates for Little Rock and Fort Smith it would be necessary to increase rates in the other communities of the state to a disproportionately high level.

The amount of increase in annual revenue to which the Company is entitled has been definitely determined to be $3,177,000. If a smaller part of the increase were to be obtained from Little Rock and Fort Smith, the rates in the other communities of the state would have to be increased to offset the reduction made in the Little Rock and Fort Smith rates. The effect that a further reduction in Little Rock and Fort Smith rates would have upon the rates in other communities is illustrated by Barbee Exhibit 3.

The Rate Schedules

By our order of February 22, 1951, this Commission approved the rate schedules submitted by the Company based upon the number of its telephones in service on December 31, 1950. These schedules were designed to produce $3,605,591 in increased annual revenues. The mandate of the supreme court [(1952) — Ark —, 94 PUR NS 214, 247 SW2d 474] requires that this increase in annual revenues be reduced to $3,177,000. The Company, as noted hereinbefore, on May 5, 1952, filed and now urges adoption of a schedule estimated to produce approximately this latter amount based upon the number of its telephones in service on December 31, 1950. We find that these schedules equitably spread the amount of increase allowed among users of the Company's telephone service throughout the state.

However, the cities contend that since the Company had fewer stations in service on December 31, 1950, than on September 30, 1950, the latter date should be used for the purpose of preparing a schedule of rates to produce $3,177,000, since the larger number of stations would mean lower rates. At the cities' request the Company was required to prepare and submit additional schedules of rates for consideration by the Commission. These were (1) a schedule of rates to produce $3,177,000 prepared on the basis of stations in service on September 30, 1950, and (2) a schedule of rates to produce $3,177,000 using stations in service on September 30, 1950, and prepared by applying a uniform percentage reduction to the rates actually

collected by the Company under bond since September 21, 1950.

[4, 5] The cities of Little Rock and Fort Smith urge approval of the latter schedule prepared by applying a uniform percentage reduction to the rates collected under bond. The Commission finds, however, that the ensuing rates result in an unbalanced schedule of rates which is not fair and equitable to all of the customers of the Company. The schedule favors business customers at the expense of residential users and more particularly at the expense of the four-party and rural residential telephone users. This violates the fundamental principle of rate making. Lower rates for residential service promote maximum usage and development and thereby increase the over-all value of telephone service. Not only does maximum development enable the residential customer to reach more people, but maximum development and usage enhances the potential profit to be derived by the business customer from his telephone.

Even more important, it is a fundamental of sound rate making that rates for 4-party residential service be held as low as is consistent in order to have service available within the ability to pay of lower income groups. The cities' proposal directly violates this fundamental in that it would place a heavy proportion of the burden of the adjustment upon the 4-party users.

As to the former schedule prepared on the basis of the Company's stations in service on September 30, 1950, we find that the only change in the rates presented on May 5, 1952, is the reduction of the 4-party residence rates by 15 cents per month in Groups VI, VII, VIII, and 10 cents per month in all other groups. All of the other rates are exactly the same.

The Commission is of the opinion that the schedule prepared by the Company on the basis of its stations in service on December 31, 1950, is proper and that such schedule is fair and equitable to all of the Company's customers. Nevertheless, in the exercise of our legislative function of rate fixing we adopt the schedule based on stations in service as of September 30, 1950, which prescribes the reduction in 4-party residence service described above, since it is equally as fair and equitable and it is the desire of the Commission that the refunds which the Company is hereafter required to make begin at as early a date as possible. This schedule prescribes rates which are just and reasonable and will comply with the mandate of the court by producing increased annual revenues as follows:

Exchange rates	$2,440,750
Toll rates	701,000
Service connection, moves and changes charges	21,204
Rural mileage charges	13,368
Total	$3,176,322

Plan of Refund

[6] The Company on May 5, 1952, filed with the Commission its "Plan of Refund," under which it proposed to mail checks to all of its customers entitled to a refund. Under the provisions of the "Plan of Refund," such refunds are to be commenced not later than thirty days after the date of this order. The Company will complete the mailing of all refund checks within a period of thirty days after commencing the mailing of said refund checks.

The Commission finds that the plan

as submitted is fair and equitable and that it properly fixes the amounts to be refunded to the Company's customers.

Early in the hearings certain of the cities indicated that they might appeal from this order of the Commission. The "Plan of Refund" which had been filed by the Company provides that interest shall be paid at the rate of 6 per cent per annum from the dates of payments of the overcharges to the date repayment is tendered by mailing. The Company stated that in the event an appeal is taken it will not be in a position to make refunds until the appeal is determined because it will, in effect, be a stakeholder; and if larger refunds are to be made to one group of subscribers, the refunds to which other groups of subscribers would be entitled must of necessity be reduced.

The Company has pointed out that the supreme court, *supra,* in holding the Company liable for interest did so on the ground that the word "damages" in § 73–217, Arkansas Statutes, included interest for the wrongful withholding of money. The Company states that if an appeal is taken by the cities, the Company can no longer be considered as wrongfully withholding money, for it is ready and willing to make distribution to telephone subscribers as soon as a determination is made of the amounts of refunds to which particular groups of subscribers are entitled, but that it would be prevented from making such distribution by the pendency of the appeal.

The Commission is of the opinion that the Company's contentions regarding payment of interest, in the event an appeal is taken, are just.

It is therefore *ordered* that:

1. The attached exchange rate schedule (Exhibit A [omitted herein]), and the attached schedule of service connection, moves and changes charges (Exhibit B [omitted herein]) are approved as of September 21, 1950, and shall currently be placed in effect on July 11, 1952.

2. The schedule of toll rates and the tariff sheet showing provision for zone mileage for rural service filed with this Commission on August 21, 1950, is approved and ordered effective from and after September 21, 1950.

3. The "Plan of Refund" submitted by the Company on May 5, 1952, is approved, with the express direction that (a) the overcharges upon which interest shall be paid shall include Federal excise taxes and Arkansas gross receipts taxes; (b) the period for which refunds shall be made shall begin September 21, 1950, and shall end July 10, 1952; (c) in the event an appeal from this order is taken by someone other than the Company and the Company does not appeal, the Company shall not be obligated to pay interest beyond forty-five days after the effective date of this order.

4. The issue date of this order is June 20, 1952, and the effective date is June 30, 1952.

Glenn Eisenhuth

v.

Mifflintown Water Company

Complaint Docket No. 15078
May 26, 1952

COMPLAINT *against water company for alleged failure to furnish service; dismissed.*

Service, § 184 — Duty to extend — Unreasonable cost — Water company.

A water company was not required to extend service, at its own expense, to a farmhouse where 195 feet of service line would be required and would include tunneling or driving under a 30-foot highway and where there was little likelihood of additional revenues resulting.

By the COMMISSION: Glenn Eisenhuth, complainant, alleged that he has frequently requested Mifflintown Water Company, respondent, to furnish water service to his property, but respondent has refused to do so. Complainant desires us to order respondent to furnish the service.

A hearing was held at Mifflintown at which complainant appeared on his own behalf and offered oral testimony. The manager for Mifflintown Water Company submitted oral testimony on behalf of respondent.

Respondent is a Pennsylvania corporation furnishing water service in the boroughs of Mifflin and Mifflintown, and, incidentally, in the townships of Fermanagh and Milford in Juniata county.

Complainant is the owner of a 6-room dwelling house located on the north side of the William Penn Highway, approximately three miles from Mifflintown. The property consists of two acres of woods and fields. The house is rented to a family of three by complainant. Complainant lives with his father on an adjacent farm. The father, prior to 1936, obtained water service from respondent company but discontinued the service because he had drilled a well. The occupants of complainant's house obtain their water from this well.

Respondent indicated that by reason of a highway relocation the service line to the farm had been abandoned and that it is necessary that a new line extension be constructed to serve the tenant house. It is further indicated that respondent's main line is on the south side of the highway. The extension would require the construction of 195 feet of service line to complainant's property line and would include tunneling or driving under a 30-foot highway. Respondent company claimed that the extension would cost "very much more" than a $350–$400

cost experienced on a previous extension in this area.

It is apparent that the proposed extension would benefit complainant's property only, with little likelihood of additional revenues resulting, so as to provide a reasonable return on the investment. No building development is indicated.

Upon the facts in this record we find that respondent company may not reasonably be required to extend its facilities, at its sole cost, for furnishing service to complainant's property, unless an arrangement were mutually agreed upon for reasonable participation by complainant in the cost of the extension. Complainant may, if he so desires, petition the Commission within fifteen days of service of this order for further hearing on the matter of the reasonableness of an arrangement of this kind and any additional relevant facts pertaining thereto; therefore,

It is *ordered:* That the complaint at C. 15078 be and is hereby dismissed.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Lake Greeley Camp

v.

Lackawaxen & Hawley Telephone Company

Complaint Docket No. 15639
May 19, 1952

COMPLAINT *that telephone service is inadequate and facilities have deteriorated so as to constitute a hazard to the public; further hearing ordered.*

Service, § 119 — Obligation to serve — Contract to limit service.
A utility cannot, by agreement between it and a patron, limit or relieve itself of the obligation to serve the public.

By the COMMISSION: This matter is before us on complaint of Lake Greeley Camp, Carl A. Hummel, owner, against Lackawaxen and Hawley Telephone Company, respondent, alleging that the service furnished by respondent is inadequate and that its facilities have deteriorated to a point where they constitute a hazard to the public.

The testimony taken at the hearing on April 15, 1952, at Milford, indicates that an agreement was entered into between the parties to the effect that

respondent, within thirty days, would release to another telephone utility, not a party to the instant proceeding, that portion of its territory within which the camp of complainant is located and upon such release of territory being accomplished, complainant would withdraw the instant complaint.

A utility cannot by agreement between it and a patron limit or relieve itself of its obligation to serve the public. Under the circumstances in this case it will be necessary that a proper and adequate record be developed on the adequacy or inadequacy of respondent's service and the safety of its facilities; therefore,

It is *ordered:* That the instant complaint be set down for further hearing for the purpose of taking testimony on the matters at issue.

NEW YORK PUBLIC SERVICE COMMISSION

Customers

v.

New York Water Service Corporation

Case 15621
July 22, 1952

COMPLAINT *by water customers against rates; suspended rates canceled and company permitted to file rates approved by Commission.*

Rates, § 625 — Wholesale sales at loss — Burden on retail customers — Water company.

Retail customers of a water company should not be required to absorb losses the company sustains from wholesale sales to water districts.

APPEARANCES: Lawrence E. Walsh, Counsel (by John T. Walsh, Associate Attorney) for the Public Service Commission; Bernard Sclove, New York, Counsel for New York Water Service Corporation; George R. Brennan, Town Attorney (by Palmer D. Farrington), Hempstead, for the town of Hempstead; Edward M. Miller, Levittown, Counsel for Levittown Property Owners' Association; Herbert H. Halperin, Levittown, Milton Costello, Wantagh, and Everett F. Meadows, Levittown, for Wantagh-Levittown Civic Association; Theodore D. Rothenberg, Counsel for Wantagh Press Civic Association; Reginald Etlinger, Merrick, and Lathrop C. Pope, Merrick, for Community Civic League, Merrick; Albert Drummond, Bellmore, Counsel for the Bellmore Civic Association;

William Ghent, Seaford, for West Side Civic Association of Seaford; R. B. Harvey, Wantagh, in his own behalf; Frank G. Marius, Wantagh, for Forest City Community Association; F. J. Uehlein, Wantagh, President, Wantagh Park Civic Association.

By the COMMISSION: The record in this case is not satisfactory and leaves certain matters open to conjecture. It is probable that the rate base is understated by reason of the failure to include the total probable amount of materials and supplies at the end of the year.

Another variable in the rate base is the possibility that the company's construction budget will not be met. However, from a comparison of actual construction with past construction budgets it appears probable that such situation will not occur.

The company has chosen not to capitalize interest during construction and seeks to have construction work in progress included in the rate base. Under the Uniform System of Accounts the company can, if it so desires, capitalize its interest during construction. Under normal circumstances this would make no material difference, but because of the great growth of the company it becomes a material item.

It would appear that the rates suggested by the examiner will produce an adequate return even allowing the maximum addition to the rate base, particularly in view of the fact that in computing the rate of return the examiner has not allowed for water sales by the company to water districts which the company's witnesses have testified are being sold at a loss. Retail customers of the company should not be required to make good losses the company sustains from wholesale sales.

Considering all the circumstances, the rates proposed by the examiner should produce an adequate rate of return. (In this connection it should be mentioned that the company received more than an adequate rate of return for the year 1951.) The company should be given an opportunity to file the proposed rates. If it does not do so the Commission will consider the adoption of a proposed order. The rates under suspension should be canceled.

Re Ogdensburg Telephone Company

2-U-3798
August 1, 1952

APPLICATION *by telephone company for authority to increase toll rates; approved.*

Discrimination, § 181 — Free telephone service — Intrastate toll calls.

A telephone company was permitted to change its intrastate toll charge to eliminate a provision which permitted subscribers to pay for the first message in any one billing period between certain intrastate toll points at the rate of 10 cents, to receive four subsequent station-to-station messages originating at the same station in the same billing period without additional charge, and to pay for additional calls in the same period at the rate of 10 cents per call, so as to provide that subscribers would be required to pay for the toll messages which were previously uncharged for, since the former rate schedule was discriminatory as between toll users and tended to burden exchange rates with the cost of toll operation.

By the COMMISSION: The Ogdensburg Telephone Company on April 25, 1952, filed an application with the Commission for authority to abandon its "bargain toll rates" to Manawa, Iola, and Scandinavia, and to substitute therefor the standard toll rate schedule of the Wisconsin Telephone Company.

Hearing: June 5, 1952, at Madison before examiner Alvin H. Olson.

APPEARANCES: L. M. Lamkins, President, Manawa, and Mable Johnson, Secretary, Ogdensburg, for Ogdensburg Telephone Company. Of the Commission staff: W. H. Evans, rates and research department.

Opinion

The Ogdensburg Telephone Company generally concurs with the toll rates of the Wisconsin Telephone Company. However, it does have one exception to this basic mileage schedule; on messages from Ogdensburg to Manawa, Iola, and Scandinavia, which are sent prepaid on a station-to-station basis only, the first message in any one billing period is charged for at the rate of 10 cents. Four subsequent station-to-station messages originating at the same station during the same billing period are permitted without additional charges, but may not be carried over a subsequent billing period. Additional calls in the same billing period are charged for at the rate of 10 cents per call.

The proposed modification in toll rates is to eliminate the "uncharged for" toll messages. Revenue for each message averaged 5.8 cents for the month of May, 1952; and it is doubtful whether such revenue is sufficient to cover ticketing, timing, billing, and

collecting, and leave a remainder for line-haul costs. It is discriminatory as between toll users and also tends to burden exchange rates with the cost of toll operation unless there is a distinct community of interest between the exchanges involved. The Commission estimates that this change in rates will increase toll revenues approximately $280 per year and will not result in excessive earnings.

The rates in question do not apply for messages sent in the opposite direction.

Findings of Fact

The Commission finds:

1. That the present toll rates for messages originating at Ogdensburg and terminating at Manawa, Iola, and Scandinavia are unreasonable and discriminatory.

2. That the proposed toll rates will not produce an excessive rate of return on the net book value of the plant in service and will eliminate existing discrimination.

Conclusion of Law

The Commission concludes:

That it has jurisdiction under §§ 196.03, 196.20, and 196.37, Statutes, to enter an order granting the increase in rates requested herein, and that such order should be entered.

ORDER

The Commission therefore *orders:*

That the Ogdensburg Telephone Company withdraw its present schedule of toll rates for messages to Manawa, Iola, and Scandinavia, and substitute therefor concurrence in the intrastate toll rates of the Wisconsin Telephone Company, effective the first billing date subsequent to the date of this order.

NEW JERSEY BOARD OF PUBLIC UTILITY COMMISSIONERS

Lester Scance

v.

New Jersey Bell Telephone Company

Docket No. 6199
July 16, 1952

PETITION *for restoration of telephone service by customer disconnected for bookmaking; dismissed.*

Service, § 62 — Commission jurisdiction — Restoration of telephone service — Illegal use.

1. The Commission has jurisdiction to entertain a petition by a telephone customer, disconnected for illegal use of service, for restoration of service, p. 19.

Service, § 134 — Denial of telephone service upon government request — Validity of company regulation.

2. A telephone company regulation, providing that facilities and services may be terminated upon objection made by or on behalf of any governmental authority, is not arbitrary but, on the contrary, is reasonable, p. 19.

Service, § 134 — Discontinuance of service — Reasonableness — Telephone company.

3. A telephone company's discontinuance of service to a customer for bookmaking was held reasonable, notwithstanding that a governmental agency transferred information as to illegal use to the company but requested no discontinuance of service, because the company would be in jeopardy of being indicted and tried for a misdemeanor once it knew the telephone was being used for an illegal purpose, p. 20.

Evidence, § 21 — Commission proceeding — Hearsay.

4. Hearsay testimony may be admitted in a Commission proceeding without constituting error, but the Commission decision and order must be based on some competent evidence, p. 20.

Evidence, § 21 — Hearsay — Public officials.

5. Testimony and records of public officials, who are presumed to be acting within the scope of their authority and in good faith, in a proceeding for restoration of telephone service discontinued because of alleged bookmaking, was held the kind of hearsay testimony upon which responsible persons would be accustomed to rely in serious affairs, p. 20.

Constitutional law, § 15 — Deprivation of property rights — Denial of service — Public utility action.

6. A telephone customer is not deprived of a property right, in violation of the Fifth and Fourteenth Amendments of the Federal Constitution, by the action of a telephone company in discontinuing service used for bookmaking, since such constitutional provisions pertain to Federal and state action, p. 21.

APPEARANCES: Carmine J. Parisi, for petitioner; A. J. Bittig, for respondent; John R. Sailer, Deputy Attorney General for the Board of Public Utility Commissioners.

By the COMMISSION: Lester Scance filed a petition with the Board requesting that the respondent, New Jersey Bell Telephone Company, be ordered to restore telephone service to his place of business known as "Lester's Service Station," 371 State Street, Hackensack, New Jersey, whose telephone was disconnected under the circumstances set forth below:

The respondent answered the petition and set up his defenses: that the service had been disconnected under the rules and regulations of the respondent as the result of a raid by representatives of Nelson F. Stamler, Deputy Attorney General, on the premises, which resulted in the arrest of the petitioner; that the service had been disconnected at the request of the office of the said Nelson F. Stamler; that the service would be restored upon receipt of a letter of the said Nelson F. Stamler, that he had no objection to the restoration of the service; and that this Board was the improper forum for this action.

A hearing was held Tuesday, April 22, 1952, at 1060 Broad Street, Newark, New Jersey. The evidence showed that Lester Scance resided at 74 Beechwood Avenue, Bogota, New Jersey. He had legally changed his name from Lester Scancarella to Lester Scance. He was the proprietor of a service station at 371 State Street, Hackensack, New Jersey, under the trade name of "Lester's Service Station" which had a coin box telephone attached to the wall of the office without enclosure listed under the number Diamond 3–9627.

On January 14, 1952, Lester Scance was notified that the telephone was temporarily out of service and on January 21, 1952, the telephone was removed by the respondent. It was admitted that he was arrested January 8, 1952, was out on bail, and was under indictment. The brief of the petitioner admits he was indicted for "aiding and abetting bookmaking." The Board admitted, over objection, that the testimony of Edgar F. Thompson, legal assistant of the respondent, was hearsay. He said, "Detective Halley, of Deputy Attorney General Stamler's staff, 'phoned me. He said that he had arrested Lester Scancarella—that was the name he used, Scancarella—the proprietor of Lester's Service Station, subscriber to Diamond 3–9627, and that Mr. Scancarella had admitted using the 'phone." The Board admitted over like objection the records (Exhibits R1 and R2), bearing the notation "1/14/52 DP–A/C Prosecutor's Raid, F/M for Disp. 1/21–C2053." Mr. Thompson explained the notation to mean that service was disconnected January 14, 1952, as the result of a prosecutor's raid and that there was a follow-up for disconnection January 21, 1952. The attorney for the petitioner on cross-examination of Mr. Thompson asked, "Will you tell us exactly, to the best of your ability, what he (sic. Halley) said to you on that day with reference to the disconnection of the telephone service of Lester Scance or Lester Scancarella at his premises at 371 State Street, Hackensack?". Mr. Thompson replied, "Yes sir. He said, 'Diamond 3–9627, I just arrested the proprietor of Lester's Service Station, Lester Scancarella. Scancarella admits using the 'phone to 'phone bets into Paterson but he won't tell me to whom or to what number he 'phoned' ". "Is that all he said?" "That's all." Mr. Thompson admitted that there was no direct request from Detective Halley to discontinue service.

The respondent refused to restore the service on petitioner's request on the ground that it had been removed on information furnished by a state officer of use for an illegal purpose. This refusal was qualified by the statement that the respondent would restore the service to the petitioner when the petitioner furnished the respondent with a letter from Nelson F. Stamler, stating that he had no objection to the resumption of telephone service at the premises.

The brief filed by the petitioner raised three questions:

1. The Board of Public Utility Commissioners was not the proper forum for this action.

2. The regulations were reasonable.

3. The actions of the respondent under these regulations were reasonable.

That of the respondent raised the following two questions:

4. The respondent's case was based on hearsay and not legal evidence admitted over objection which was improper.

5. The actions of the respondent deprived the petitioner of a property right in violation of the Fifth and Fourteenth Amendments of the Constitution of the United States.

Conclusions

The Board finds as fact:

1. Lester Scance operated a gasoline station at 371 State Street, Hackensack, New Jersey, under the trade name "Lester's Service Station" and had on the premises a coin box telephone Diamond 3–9627 located on the office wall without any enclosure.

2. He was arrested January 8, 1952, and subsequently indicted for "aiding and abetting bookmaking."

3. The New Jersey Bell Telephone Company was notified of his arrest on a charge of "bookmaking" by Detective Halley and that he had used the telephone Diamond 3–9627 to place bets.

4. As the result thereof New Jersey Bell Telephone Company suspended service January 14, 1952, and subsequently removed the telephone.

5. The service has not been resumed as the conditions required by the company have not been fulfilled.

6. No letter from Mr. Stamler was produced stating that he had no objection to the restoration of the service.

The Board now considers the questions raised by the pleadings and briefs in the order they have been presented above:

[1] 1. Under R.S. 48:2–24 NJSA, "If any public utility shall discontinue service and the Board after hearing upon notice shall find and determine that service should be resumed, the Board may order that service be resumed forthwith or on such date as it may fix." cf. Pennsylvania-Reading Seashore Lines v. Public Utility Comrs. (1950) 5 NJ 114, 74 A2d 265, cert denied (1950) 340 US 876, 95 L ed 637, 71 S Ct 122. In addition, R.S. 48:3–3 NJSA provides, "No public utility shall . . . withhold or refuse any service which reasonably can be demanded or furnished when ordered by the Board" which may be enforced by the Board under R.S. 48:2–16 NJSA, "The Board may, after hearing, upon notice, by order in writing require every public utility: a. to comply with the laws of the state . . . , and to conform to the duties imposed upon it thereby . . ." . Therefore, the Board has jurisdiction to entertain this application which alleges that the service was . . . "arbitrarily, and without excuse disconnected . . . ."

[2] 2. The tariffs of respondent filed with this Board include General Regulations II, § G, which became effective January 1, 1948, to wit:

"G. Right to Terminate Service

In the event of improper use, abuse or the abandonment of the station, the use of the service for the transaction of business in violation of the law . . . or any other violation by the customer of the rules and regulations governing the facilities and service furnished, the company may without notice suspend the service until all regulations have been complied with, . . . or terminate the service without suspension or following suspen-

sion and sever the connection and remove its equipment from the customer's premises. In addition, facilities and service may be terminated either—

1. Upon objection to their continuance made by or on behalf of any governmental authority."

. . . . .

The question is settled in New Jersey that these regulations are not unreasonable or otherwise in violation of law and have been passed upon many times by this Board. Cf. Procaccino v. New Jersey Bell Teleph. Co. (1952) 92 PUR NS 63; Vacchiano v. New Jersey Bell Teleph. Co. (1950) 87 PUR NS 25; De Luisa v. New Jersey Bell Teleph. Co. (1949) 78 PUR NS 22. The Board reiterates its position as set out therein.

[3] 3. The important question is whether the actions of the respondent under these regulations were reasonable or arbitrary. It appears from the testimony that no direct objection to the continuance of the facility and service was made by or on behalf of any governmental authority. However, it appears that the respondent was informed of the use of the telephone for alleged illegal purposes by a governmental officer. It is difficult to conceive why this information was furnished except to effect discontinuance of the service. Even though no request was made the provision of Regulation G, *supra*, that allows suspension or termination of the service for ". . . the use of the service for the transaction of business in violation of the law . . ." applies. Apparently the regulations and action of the respondent were the result of consideration of the Statutes R.S. 2:135–2 NJSA; R.S. 2:135–3 NJSA; R.S. 2:171–3 NJSA; Ganek v. New Jersey Bell Teleph. Co. (1944) 57 PUR NS 146 and cases noted *supra*. But, it is important to note that these statutes were readopted on January 1, 1952, and respectively N.J.S. 2A:112–3; N.J.S. 2A:112–4; N.J.S. 2A:146–3 with the words, "aid, abet or assist" having been removed from N.J.S. 2A:112–3. This means that a corporation cannot be dissolved for an offense of aiding and abetting as the courts must rely on the common law for prosecution of the crime of aiding or abetting; N.J.S. 2A:112–4 must be strictly construed. However, N.J.S. 2A:146–3 provides that, "Any person, or any express, telephone, telegraph or other company or corporation, engaged in the business of carrying or transmitting packages, letters or communications within this state, whether by express, telegraph, telephone or any other means, that knowingly carries any message of a kind which will further or promote the interest of any unlawful pursuit, or enable a person to carry on any business or practice declared illegal by any statute of this state, is guilty of a misdemeanor." Certainly the respondent would be in jeopardy of being indicted and tried for this misdemeanor once it *knew* of the use of one of its telephones for the purpose of taking or placing bets. The respondent's actions in protecting itself were not unreasonable.

[4, 5] 4. It is settled law in New Jersey that even though the Board is not bound by technical rules of evidence R.S. 48:2–32 NJSA the decisions and orders of the Board, as well as all other administrative agencies, must be based on "sufficient or substantial competent and relevant evi-

dence." New Jersey Power & Light Co. v. State (1952) 9 NJ —, 95 PUR NS —, 89 A2d 26; Central R. Co. v. Department of Public Utilities (1951) 7 NJ 247, 260, 89 PUR NS 394, 81 A2d 162; Public Service Coordinated Transport v. State (1950) 5 NJ 196, 223, 86 PUR NS 161, 74 A2d 580; New Jersey Bell Teleph. Co. v. Communications Workers of America (1950) 5 NJ 354, 378, 75 A2d 721; Ward v. Keenan (1949) 3 NJ 298, 303, 70 A2d 77; Mulhearn v. Federal Shipbuilding & Dry Dock Co. (1949) 2 NJ 356, 359, 66 A2d 726. While hearsay testimony may be admitted without constituting error, Huber v. New England Tree Expert Co. (1948) 137 NJL 549, 61 A2d 59, 63; Andricsak v. National Fireproofing Corp. (1950) 3 NJ 466, 471, 70 A2d 750, the decision and order must be based on some competent evidence, New Jersey Bell Teleph. Co. v. Communications Workers of America, *supra*. It has been commented that, "Administrative experience is proving the soundness of dispensing with the exclusionary rules. Simplicity and common sense take the place of intricacy and artificiality. The fundamental tendencies are (1) to replace rules with discretion, (2) to admit all evidence that seems relevant and useful, and (3) to rely in making findings upon 'the kind of evidence on which responsible persons are accustomed to rely in serious affairs.'" Davis, "Administrative Law," West Publishing Co., St. Paul, Minn., 1951, p. 448, which cited National Labor Relations Board v. Remington Rand (CCA2d 1938) 94 F2d 862, 873, cert. denied (1938) 304 US 576, 82 L ed 1540, 58 S Ct 1046, where Judge Learned Hand said: "He did indeed admit much that would have been excluded at common law, but the act specifically so provides, § 10(b), 29 USCA § 160(b); no doubt, that does not mean that mere rumor will serve to 'support' a finding, but hearsay may do so, at least if more is not conveniently available, and if in the end the finding is supported by the kind of evidence on which responsible persons are accustomed to rely in serious affairs. . . ." It seems to this Board that reports of public officials who are presumed to be acting within the scope of their authority and in good faith are the kind of information on which responsible persons are accustomed to rely in serious affairs. It does not seem unreasonable that we rely on the records in this case as well as the testimony of the receipt of notice of alleged illegal acts. The attorney for the petitioner had opportunity to cross-examine the witness and in fact asked the same question to which he objected as hearsay and received the same answer.

[6] 5. The argument that the respondent deprived the petitioner of a property right in violation of the Fifth and Fourteenth Amendments of the Constitution of the United States, is without merit for the first pertains to actions of the Federal Government and the second pertains to the actions of a state. In this case it was the act of a public utility.

The Board hereby denies the application of the petitioner for the reasons stated above.

Re Wisconsin State Hotel Association

2–U–3753
July 21, 1952

APPLICATION *of state hotel association for approval of increased rates for telephone service to hotel patrons and for other relief; increased charges to hotel patrons approved.*

Discrimination, § 167 — Telephone rates — Hotel preference.

1. A telephone company should not be required to underwrite the cost of operating the telephone department of a hotel by giving preferential telephone rates to hotels, p. 23.

Rates, § 568 — Telephones — Hotel charges.

2. Hotels were authorized to charge 15 cents for local telephone calls where such an increase would more than cover the increase in rates charged by a telephone company, authorized in a previous rate proceeding, and would leave some margin for increased hotel costs, p. 23.

By the COMMISSION: The Wisconsin State Hotel Association, a Wisconsin corporation, on February 21, 1952, filed a petition in behalf of its members alleging that increases in the cost of providing telephone service by petitioner's members to their guests, including particularly the recent (2–U–3573 [93 PUR NS 490]) increase in telephone rates and charges by Wisconsin Telephone Company to hotels as authorized by the Commission, have been such as to render inadequate the revenues received by hotels for providing such service; and that increased revenues are and will be required.

Hearing: March 19, 1952, at Madison before Examiner Samuel Bryan.

APPEARANCES: Wisconsin State Hotel Association by Philip H. Porter, Attorney, Madison, Irving A. Lore, Attorney, Milwaukee; Wisconsin Telephone Company by Francis J. Hart, General Counsel, Milwaukee; of the Commission staff: K. J. Jackson, rates and research department.

Briefs were submitted by Philip H. Porter and Irving A. Lore for the applicant and Francis J. Hart for the Wisconsin Telephone Company.

Opinion

Statement of the Issues

The issues in this proceeding are whether the existing rates, rules, and regulations of Wisconsin Telephone Company as they pertain to hotel telephone service are reasonable and just; and if not, what rates, rules, and regulations are reasonable and just. [See table on page 23.]

Applicant's Contention

The applicant maintains that the following measures are necessary and proper in order to provide the relief needed by its members:

Present Rates	
1. Switchboards, each position	Standard rates as on file for commercial PBX systems
2. Telephones, *each	$1 a month
3. Other equipment	Standard rates
4. Trunks	No guarantee
Local messages from any telephone of the hotel private branch exchange system, each:	
Charge to hotel	
Charge to guests	$.04
Milwaukee	$.12
All other exchanges	.10
5. Toll messages	Standard toll rates
6. Commission to hotel	15 per cent of revenues from toll messages of other than the customer from private branch exchange telephones in guest rooms
7. Nonrecurring charges	Regular service connection, move, and change charges apply to telephone. No charges apply on trunks

* Where the hotel owns the wiring, the telephone rate is $.90 a month.

1. Authorization of a maximum message charge by hotels to their guests of 15 cents per local call; such 15 cents to be the permissible maximum and applicable throughout the state. (Milwaukee or elsewhere.)

2. Establishment and authorization of a schedule of reasonable service charges by hotels to their guests on intrastate toll messages.

3. Provision of increases in commissions paid by Wisconsin Telephone Company to hotels on originating intrastate toll messages.

4. Prescription of rates and charges by Wisconsin Telephone Company for services and facilities furnished hotels on a different basis and lower level than are applicable to other commercial service.

Wisconsin Telephone Company Position

[1] Wisconsin Telephone Company considers that it would not be unreasonable to permit the hotels to charge 15 cents for local messages placed from guest rooms. It maintains that no showing has been made to support applicant's proposal that either service charges be permitted on guest intrastate toll messages or that any increase should be allowed in commissions or originating intrastate toll messages. As to the proposal of the applicant that hotels be furnished service and facilities on a different basis and lower level than are applicable to other commercial service, it points out that in Docket 2–U–2292 (1950) 85 PUR NS 148, the Commission disposed of this matter by establishing a fundamental policy that the telephone company should not be required to underwrite the cost of operating the telephone department of a hotel in the form of preferential rates.

Hotel Telephone Service

[2] With the consent of the parties the record in Docket 2–U–2292, in so far as it pertained to hotel rates, was made a part of the record in this pro-

ceeding. In Docket 2–U–2292 the Commission stated, 85 PUR NS at pp. 151, 152, as follows:

"The hotel telephone system has these principal functions: (1) To provide the hotel as a subscriber with telephone service for its own purposes, (2) to provide an internal intercommunicating system between the guest and the hotel and among guests, and (3) to provide the guest with incoming and outgoing service to the public. All the costs of maintaining and operating a telephone system within a hotel are joint costs and must be apportioned therefor between 'guest' and 'management' functions. It is therefore necessary to determine the total cost to the hotel of maintaining and operating the telephone system and then apportion this cost as between 'guest' and 'management'."

In 2–U–2292 a study was made by the hotel association at eight hotels in the state of the cost of maintaining and operating the telephone system in the hotel. The telephone company also made a study consisting of the distribution of calls and work units between management and guest telephones for the same hotels. Although the hotel study had many defects, the data contained therein was revised and used as a guide in the determination of rates to be charged hotel guests for local service. In the instant proceeding the applicant, in effect, has endeavored to bring the results of the study as revised by the Commission up to date for the purpose of demonstrating its need for additional revenue.

The following data taken from the decision of the Commission in Docket 2–U–2292 shows the estimated effect of the application of the present rates, exclusive of commissions, on intrastate toll calls as applied to the eight hotels in the study:

Milwaukee Hotels	Revenue From Guest Service	Cost of Guest Service	Profit or Loss
Schroeder	$38,961	$29,285	$9,676
Medford	6,767	7,393	(626)
Shorecrest	5,970	5,095	875
State Hotels			
Loraine	$8,511	$8,485	$26
Eau Claire	3,411	5,192	(1,781)
Raulf	1,787	2,958	(1,171)
Avalon	669	1,638	(969)
Beaumont	1,422	2,811	(1,389)

( ) Denotes red figure.

Losses were shown at state hotels because the association was of the opinion that a 10-cent local call rate was the maximum that the traffic would bear.

The data used in the above calculation was as of 1948; the instant proceeding includes data which shows the results of operation at present rates based on the level of business in 1951. Following are such results:

Milwaukee Hotels	Revenue From Guest Service	Cost of Guest Service	Profit or Loss
Schroeder	$41,360	$29,205	$12,155
Medford	7,732	7,583	149
Shorecrest	4,634	4,524	110
State Hotels			
Loraine	9,377	8,416	961
Eau Claire	3,190	5,011	(1,821)
Raulf	2,139	2,975	(836)
Avalon	853	1,640	(787)
Beaumont	1,489	2,772	(1,283)

( ) Denotes red figure

The above data neither reflects the increased rates to hotels authorized by the Commission in Docket 2–U–3573, 93 PUR NS 490, nor increased hotel costs such as switchboard labor and administrative expenses since 1948. The reflection of these additional costs indicates the following:

Milwaukee Hotels	Profit or Loss	Increased Costs Telephone Rates	Increased Costs Hotel Costs	Profit or Loss
Schroeder	$12,155	$1,583	$3,561	$7,011
Medford	149	656	1,057	(1,564)
Shorecrest	110	404	574	(868)
State Hotels				
Loraine	961	571	1,252	(862)
Eau Claire	(1,821)	331	962	(3,114)
Raulf	(836)	325	433	(1,594)
Avalon	(787)	121	306	(1,214)
Beaumont	(1,283)	276	511	(2,070)

( ) Denotes red figure

Except for the Schroeder Hotel, whose operation because of its size cannot be compared with other hotels, all of the hotels show a loss in connection with guest service on the basis of the estimates as shown above. As previously stated the hotel costs as distinguished from costs resulting from rates charged by the telephone company and as reflected in the above data are defective and, in the opinion of the Commission, are overstated. The increase in "hotel costs" in the above table being based on data used in 2–U–2292 are likewise overstated. In view of this situation, the Commission is of the opinion that an increase in rates on guest calls that will fully cover the increase in telephone rates as authorized in 2–U–3573 and leave some margin for increased "hotel costs" would be fair and reasonable.

Following would be the effect of the application of a 15-cent local call rate at all of the hotels included in the study:

Milwaukee Hotels	Increased Cost Telephone Rates	Increase in Revenues 15-Cent Rate	Excess of Increased Revenue over Increased Rates	Increased Costs Hotel Costs
Schroeder	$1,583	$7,342	$5,759	$3,561
Medford	656	1,558	902	1,057
Shorecrest	404	1,020	616	574
State Hotels				
Loraine	571	2,870	2,299	1,252
Eau Claire	331	874	543	962
Raulf	325	555	230	433
Avalon	121	207	86	306
Beaumont	276	383	107	511

An increase to 15 cents for a local call would more than cover the increase in telephone rates as authorized by the Commission in Docket 2–U–3573. At three of the eight hotels an increase to 15 cents a call would cover the hotel's estimate of its increased cost.

Data are available to determine the amount of increase in rates authorized by the Commission in Docket 2–U–3573 for each hotel in each exchange operated by Wisconsin Telephone Company. Likewise, data are available on the number of calls placed by each hotel. The annual increase in rates to hotels in Milwaukee including Federal excise tax amounts to $27,193.44. The estimated annual amount of additional revenue that could be obtained by increasing the local message rate on guest calls to 15 cents a call based on 1951 usage would be $32,743.08. If we were to assume that 50 per cent[1] of the increase in rates is applicable to "guest costs," the guest portion of the increase in rates of $27,193.44 would be $13,596.72. This basis of apportionment would leave the hotels $19,146.36 to apply against increased labor and administrative expense. For hotels outside Milwaukee increased rates amount to $25,002.60, and a 15-cent call rate would increase revenue by $23,983.20. If 45 per cent[2] of the increase in rates were assumed to be applicable to "guest costs," the guest portion of the increase in rates would be $12,501.30. This would leave $11,481.90 to offset increased labor and administrative expense of the hotels.

The applicant maintains that the above basis of determining the effect of an increase in a local call rate is unfair because the data are heavily loaded by a few large hotels with high calling rates. To some extent this is probably true. It should be pointed out, however, that there are a considerable number of hotels that have a complete telephone system that have a calling rate of from one to four calls on each telephone monthly. These hotels cannot hope to recover their "guest costs." As a basis for determining the effect of the rate increase to the average hotel, the applicant has

[1] Docket 2–U–2292

Schroeder	47.85%
Medford	51.65%
Shorecrest	55.21%

[2] Docket 2–U–2292

Loraine	40.94%
Eau Claire	52.08%
Raulf	49.31%
Avalon	36.77%
Beaumont	38.46%

presented data which show the increased cost per message to the hotels occasioned by the increase in rates as follows:

Milwaukee		
Increased cost per message	2.7 cents	(median)
Increased cost per message	3.13 cents	(average per hotel)
Increased cost per message	2.2 cents	(over-all average)
Outside Milwaukee		
Increased cost per message	6.7 cents	(median)
Increased cost per message	9.15 cents	(average per hotel)
Increased cost per message	4.8 cents	(over-all average)

The applicant urges the Commission to give primary consideration to the median figure; that is, one above which and below which a substantially equal number of hotels fall. If we were to again assume that for Milwaukee 50 per cent of the increase is applicable to "guest costs," the guest portion of the median would be 1.61 cents a message. If local calls were increased 3 cents to 15 cents, there would remain 1.39 cents to cover increased hotel labor and administrative expense. For hotels outside Milwaukee 45 per cent of the median of 6.7 cents would indicate 3.28 cents as guest portion of the increased rate. With a local call rate increase of 5 cents to 15 cents there would remain 1.72 cents to cover hotel increased labor and administrative expense.

It is apparent to the Commission that whatever basis of determination is used—the study method, the hotels as a group, or median cost per message—the establishment of a uniform local call rate of 15 cents would adequately cover the cost to the hotel of increased telephone rates and would leave a substantial margin to cover the hotels' increased cost of labor and administrative expense.

Findings of Fact

The Commission finds:

1. That the present schedule of hotel rates of Wisconsin Telephone Company is unreasonable.

2. That a local message rate of 15 cents applicable to hotel service is just and reasonable.

Conclusions of Law

The Commission concludes:

That an order should be issued in accordance with the foregoing findings of fact.

ORDER

The Commission *orders:*

That the schedule of hotel rates attached as an appendix hereto [appendix omitted] and made a part hereof shall be made effective on the first billing period after twenty days from the date of this order.

WISCONSIN PUBLIC SERVICE COMMISSION

Re Wisconsin Telephone Company

2-U-3786
August 8, 1952

PROPOSAL *of telephone company to provide automatic answering and recording service and request for approval of rate; approved.*

Service, § 441 — Telephone answering device.

1. Telephone answering equipment developed by the Bell Laboratories was approved after a Commission's engineering department reported that the equipment had been subjected to a reasonable test period and had functioned satisfactorily, p. 28.

Rates, § 553.1 — Telephone answering service.

2. A monthly charge of $12.50, plus an initial installation charge of $15, was found to be supported by cost data presented in connection with a proposed telephone answering service, p. 28.

By the COMMISSION:

[1, 2] The Wisconsin Telephone Company filed a proposal with the Commission on April 10, 1952, to provide automatic answering-and-recording telephone service to subscribers desiring such service at a monthly rate of $12.50 plus installation charge of $15 and the cost of recording discs. The Commission deemed a formal investigation of such proposal and a hearing to be desirable.

Hearing: May 28, 1952, at Madison before Commissioners John C. Doerfer, W. F. Whitney, and James R. Durfee.

APPEARANCES: Wisconsin Telephone Company by Francis J. Hart, General Counsel, Milwaukee; as their interests may appear: Electronic Secretary Industries, Inc., by Carl B. Rix, Attorney, Milwaukee; General Telephone Company by Walter Wellman, Madison;

In opposition: Army Schudson Company, Wisconsin Distributor for the Telemagnet by Frederich Hersch, attorney, Milwaukee.

Of the Commission staff: H. J. O'Leary, chief, rates and research department, K. J. Jackson, rates and research department, Warren Oakey, engineering department.

Opinion

The applicant on April 10, 1952, filed with the Commission an amendment to its General Exchange Tariff, covering an offering of automatic answering-and-recording service. The proposed amendment has been submitted in this proceeding as Exhibit 1 and provides as follows:

d. Automatic Answering-and-recording Service

1. *General*

a. The telephone company will fur-

nish automatic answering-and-recording service which provides for the automatic answering of telephones, the transmission of a prepared message to the calling party, and the automatic recording of a message from the calling party.

b. The telephone company will furnish and maintain all equipment required for such automatic answering-and-recording service.

c. Automatic answering-and-recording service is available for use with all exchange and private branch-exchange stations where full selective ringing is employed. The service is not available at telephones where semi-selective or nonselective ringing is used.

d. The automatic answering-and-recording equipment automatically disconnects the called telephone after the completion of the period provided by the equipment for recording incoming messages.

e. Since the subscriber and calling parties have exclusive control over the quality and characteristics of speech used in the messages recorded, the telephone company has no liability for the quality of, or defects in, the recordings of such messages.

f. The subscriber indemnifies and saves the telephone company harmless against all claims arising from the material transmitted over facilities furnished hereunder, including claims for libel, slander, fraudulent or misleading advertisements, infringement of copyright, or any other claims, and against all claims arising out of any act or omission of the subscriber or of the calling party in connection with facilities provided by the telephone company.

g. Where the automatic answering-and-recording equipment provided by the telephone company involves the use of discs for recording the answering and-incoming messages, one answering and one recording disc will be furnished at the time of installation without additional charge. Additional answering-and-recording discs will be furnished upon request in quantities of ten or any multiple thereof.

2. *Rates*

a. Automatic answering-and-recording service is furnished at the following charges:

(1) Automatic answering-and-recording equipment (including, where required, one answering and one recording disc).

Monthly rate	$12.50
Installation charge	15.00
Move charge	5.00

(2) Discs

Ten additional answering discs	.50
Ten additional recording discs	1.25

This is a new-service offering. It is proposed to use two different types of equipment. One type is called the Peatrophone, which has been tested in the field and is now being used by some of the Bell System companies. The other equipment is known as the 1–A telephone answering set, developed by the Bell Telephone Laboratories. The essential difference between the two types of equipment is that the Peatrophone is capable of answering a greater number of incoming calls than the 1–A set. However, the 1–A set will be installed at all locations except those that have a greater number of incoming calls than can be handled by the 1–A set without readjustment.

The applicant submitted a 1–A set for installation and test. Our engineering department reports that the equipment has been subject to a reasonable test period and appears on the whole to be satisfactory. The applicant also submitted cost data supporting the proposed rate. These data have been checked and appear to indicate that the rate as proposed is not unreasonable.

Findings of Fact

The Commission finds: That the rates, rules, and regulations covering the furnishing of automatic answering-and-recording service as set forth in Public Service Commission of Wisconsin, General Exchange Tariff No. 2, Section 16, Sheets 3 and 4 as presented for filing by the Wisconsin Telephone Company are reasonable.

Conclusion of Law

The Commission concludes: That it has jurisdiction under §§ 196.02, 196.19, and 196.20 to authorize the rates, rules, and regulations as proposed and that such an order should be entered.

ORDER

The Commission *orders:* That the Wisconsin Telephone Company be and hereby is authorized to furnish to its customers automatic answering-and-recording service at the rates and under the rules and regulations as set forth in Public Service Commission of Wisconsin, General Exchange Tariff No. 2, Section 16, Sheets 3 and 4 which is set forth in Appendix A attached hereto and made a part hereof. [Appendix omitted.]

LOUISIANA PUBLIC SERVICE COMMISSION

Ex Parte Arkansas & Louisiana Missouri Railway Company et al.

No. 5700, Order No. 5963
March 21, 1952

APPLICATION *by railroads for rate increases to conform with interstate freight rates; granted with exceptions.*

Rates, § 438 — Railroad freight rates — Equalization of interstate and intrastate rates.

Intrastate freight rate increases were granted, with exceptions, to conform with interstate rates so that the Interstate Commerce Commission, under § 13 of the Interstate Commerce Act, 49 USCA § 13, would not freeze intrastate rates not subject to regulation by the state and impose the increases despite the state Commission's refusal to do so.

By the COMMISSION: This is an application by the rail carriers operating in Louisiana for authority to publish and assess on Louisiana intrastate freight traffic the same measure of increases in rates and charges as has, up to the present time, been allowed by the Interstate Commerce Commission on interstate traffic in its Docket Ex Parte 175. The matter was heard by the Commission at regular session held in New Orleans, Louisiana, on December 13 and 14, 1951.

The measure of increase allowed by the Interstate Commerce Commission on interstate traffic is, generally, 6 per cent, subject to certain exceptions and certain maximum as to some commodities. However, since the granting of this 6 per cent increase interstate, the Interstate Commerce Commission has, on motion of the carriers, reopened Ex Parte 175 and now has under consideration the carriers' request for a 15 per cent increase in lieu of the 6 per cent already granted. As of the date of hearing in this proceeding, the interstate increase amounted to 6 per cent, and the record herein makes it quire clear that the instant application is for a 6 per cent increase intrastate, subject, of course, to the same exceptions and maxima as were provided by the Interstate Commerce Commission on interstate traffic.

At the hearing of this proceeding the carriers pursued their usual practice of submitting system-wide figures as to revenues and operating expenses and alleging that specific figures as to Louisiana operations were impossible of production. They draw the inference, and assert it as a fact, that their Louisiana position is no better than the position of the large systems of which their Louisiana lines form a part. The record is, as usual, devoid of any specific figures as to their Louisiana operations; and if we were free to render judgment on the record itself, we would, of course, reject the entire offering as incompetent.

But unfortunately we are not free to render judgment on the record. As we have stated in a previous order (No. 5214 of August 31, 1949), we are inhibited in the exercise of our judgment by the 13th Section of the Interstate Commerce Act, with its threat of a frozen intrastate rate structure not subject to regulation by any state authority. We must, as a practical matter, permit, in general, the imposition within Louisiana of the same measure of increases as has been permitted interstate, or incur the certain supersession of our jurisdiction by the Interstate Commerce Commission, which body would then impose the increases within Louisiana despite our refusal to do so.

However, there are certain commodities moving within Louisiana as to which the evidence adduced by the carriers to support a rate increase is so weak that, regardless of the degree of coercion under which we labor, we shall find it necessary to study further before we can acquiesce in the action of the Federal authority.

There has been little, if any, correction of the inequities in the Louisiana rates which we outlined in our Order No. 5214 above referred to on pulpwood; tarwood; asphalt; brick, common building or face, and hollow building tile; cattle feed, consisting of not less than 65 per cent of cottonseed meal and cottonseed hulls or soybean meal, carloads; cottonseed, cottonseed

cake, meal, hulls and bran, carloads; soybeans, soybean cake or meal, carloads; sand, gravel and related commodities, including asphalt-coated rock, sand and gravel; sugar, raw and refined; sugar cane; and bagasse.

In addition, the record in this proceeding indicates that on cement the present scale of rates in Louisiana are 52.9 per cent higher than scales in Texas, 57.6 per cent higher than in Idaho, and 42.2 per cent higher than the so-called M.K.T. scale, and higher than many other scales now effective in the west and southwest.

It is, accordingly,

Ordered, that, subject to the exceptions hereinafter stated, the rates and charges of petitioners herein may be increased in conformity with the increases authorized and made effective, as of this date, on interstate traffic under orders of the Interstate Commerce Commission in its Docket Ex Parte 175; and it is *further*

Ordered, that the authority herein granted shall not apply to the line-haul rates on pulpwood; tarwood; asphalt; brick, common building or face, and hollow building tile; cattle feed, consisting of not less than 65 per cent of cottonseed meal and cottonseed hulls or soybean meal, carloads; cottonseed, cottonseed cake, meal, hulls and bran, carloads; soybeans, soybean cake or meal, carloads; sand, gravel and related commodities, including asphalt-coated rock, sand and gravel; sugar, raw and refined; sugar cane; bagasse, and cement, as to which commodities the record in this proceeding shall be kept open for further consideration; and it is *further*

Ordered, that jurisdiction of these proceedings be and it is hereby expressly retained for the entering of any further order or orders deemed necessary and proper in the premises.

Industrial Progress

A digest of information on new construction by privately managed utilities; similar information relating to government owned utilities; news concerning products, supplies and services offered by manufacturers; also notices of changes in personnel.

Peoples Gas Light Plans $50,000,000 Storage Facilities

PEOPLES GAS LIGHT & COKE COMPANY of Chicago is planning to start construction in connection with an underground gas storage project to supply eventually some 800,000 additional house heating customers in the Midwest, according to a recent announcement by James F. Oates, Jr., president.

The project will cost about $17,000,000 for initial operation, with eventual investment to reach $50,000,000, Mr. Oates said.

Kansas City Power to Spend $15,000,000 for Generator

KANSAS CITY POWER & LIGHT COMPANY plans to spend an additional $15,000,000 to increase facilities at its new Hawthorne plant in Kansas City, which already has cost more than $35,000,000 since it was started three years ago. The company plans to add a 100,000-kilowatt turbo-generator to the station's other power units. The project will require nearly three years to complete.

The generator will be manufactured by Westinghouse Electric Corporation. Ebasco Services, Inc., which designed, engineered and has been constructing the new station, will install the unit. When the generator is ready for service, the nameplate capacity of the Hawthorne station will be 332,000 kilowatts, which will make it one of the largest electricity producing installations in the state. Actual capacity will be 362,000 kilowatts.

H. B. Munsell, president, said the company will have spent about $63,000,000 from 1946 to 1956, based on projects now under way or planned, solely in power production apparatus. Estimated transmission and distribution investments for the same period will total $47,000,000. In approximately 11 years, Kansas City's electrical supply facilities will have represented new investment of $110,000,000.

Porcelain Enamels Developed For Public Utility Use

PORCELAIN ENAMEL FINISHERS, 3221 West 30th street, Chicago, Illinois, recently announced the development of special new acid resisting porcelain enamels for use in various public utility applications.

Ray Gutman, vice president of the firm, stated that these new enamels were designed especially to resist atmospheric weathering to which these signs are exposed under service conditions. Public utility firms, he said, are expanding the use of porcelain enamel identification markers for mounting on poles as a simplified means of locating power failures and other service breakdowns from the air.

Thos. A. Edison Introduces Portable Dictating Machine

THOMAS A. EDISON, INC. has perfected a compact, lightweight dictating and transcribing machine which can be carried with ease under the arm or in a brief case, and yet stand heavy duty office use, according to Henry G. Riter, 3rd, Edison president.

Lighter by approximately 25 per cent than any other dictating machine, the 11-pound, book-shaped VP Edison Voicewriter has been thinned down to less than 2½ inches, and uses Vinylite "diamond discs" which have a capacity of 30 minutes of dictation which the instrument plays back for the stenographer with full natural clarity.

While the VP Edison Voicewriter is a self-contained machine, the "diamond discs" are standard and interchangeable for use on all Edison equipment, including the Edison Tele-Voice phone dictation system.

Mr. Riter explained that the VP Edison Voicewriter represents a research investment of well over $500,000 to perfect the machine, and added that the price will be among the lowest in the field.

Heller Fastening Gun Speeds Cable and Tube Installations

A SWIFT, easy and economical installation of cables and hollow tube lines is claimed to be provided by a new hand-held, automatic fastening gun developed by The Heller Stapler Company of Cleveland, Ohio.

According to the manufacturer, this compact machine is operated with just one hand, leaving the other hand free to guide the lines being installed, yet packs the power of a big industrial stapler. Its unusual force will drive bands around cables and tubes into hard or soft woods, plaster walls, flooring, joists and

(*Continued on Page 26*)

even mortar joints and cinder or mineralite building blocks. It drives a special Heller extra-size band with leg lengths varying from 3/16 to 1/2 inch.

This Heller cable fastener is now in use for installation of coaxial cable lines, copper tubing, thermostatic controls, intercommunication systems, chemical flow controls, transformer separators and many types of heavy wiring.

Straw Named Bendix Mobile Head

LAWRENCE J. STRAW has been named mobile sales manager of the Bendix Radio Division of Bendix Aviation Corporation. The appointment was announced by Arnold Rosenberg, general sales manager of the Division.

In his new capacity, Mr. Straw will head up a newly created national sales engineering organization, selling the Bendix line of two-way radio and communications systems. Bendix has just entered this field after concentrating for many years on aviation communication and navigation systems and railroad radio.

Admiral Noble Joins Nordberg

THE election of Admiral A. G. Noble, USN, (Retired), as executive vice president, a member of the executive committee and a member of the board of directors of the Nordberg Manufacturing Company, Milwaukee, was announced secently by Robert E. Friend, president, and James A. Friend, senior vice president.

Admiral Noble comes to Nordberg from Martin-Parry Corp. of Toledo, where he was vice president and general manager since his retirement from the Navy.

Nordberg Manufacturing Company, established in 1890, has long been a major factor in the production of Diesel engines for both ship propulsion and stationary power applications. Nordberg engines range in size from 10 to over 10,000 horsepower per unit. The company is also a world-leading manufacturer of machinery for the basic processing of ores and industrial minerals, and a leading producer of railway maintenance-of-way equipment.

Transcontinental Gas Increases Deliveries to 555,000,000 Cu. Ft.

TRANSCONTINENTAL GAS PIPE LINE CORPORATION, which supplies natural gas to New York, New Jersey, and Philadelphia utilities, announced recently that completion of additional compressor units had increased its daily delivery capacity to the authorized maximum of 555,000,000 cubic feet.

All of the company's presently certificated

(*Continued on Page* 28)

Loss reduction alone pays for capacitors on Pacific Power & Light Co. system

Capacitors save 50,000,000 kw-hrs annually

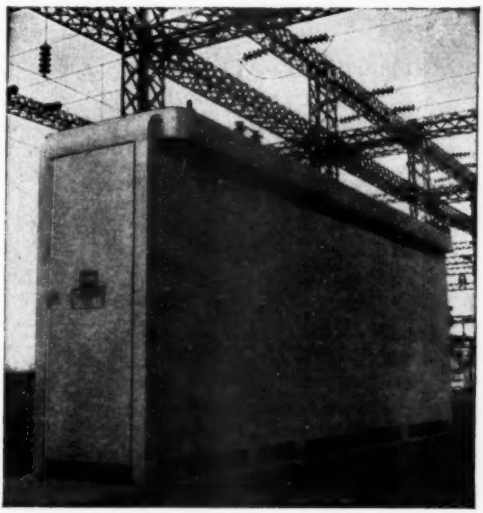
In its progressive program of power-factor improvement, Pacific Power & Light has installed 142,000 kvar of capacitors . . . 51% switched. This amounts to 1 kvar for every 2.43 kw of its 345,000-kw peak-load capacity.

Capacitors raise PF—reduce losses. Without these capacitors P P & L's power factor would be 82%—annual losses 285 million kw-hrs. In 1951, ***with capacitors,*** its power factor was 97%—losses 235 million kw-hrs.

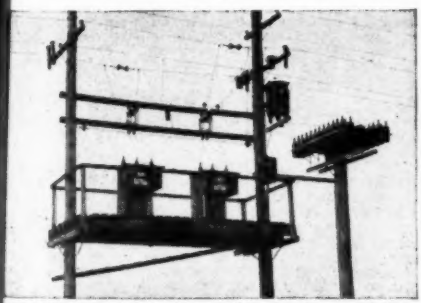
$150,000 saving pays for capacitors. Even at 3 mills per kw-hr this represents a $150,000 saving each year. Annual cost of carrying the 142,000 kvar of capacitors installed is $142,000 ($8 per installed kvar capitalized at 12½%). Thus, the saving on power losses alone more than pays for the capacitors.

Bonus of better voltage—reduced loading. Calculations show that the capacitors reduced voltage drop in overhead circuits by 23 to 48%, depending on conductor size and length. And they released an estimated 15% of kw capacity. Both at no extra cost!

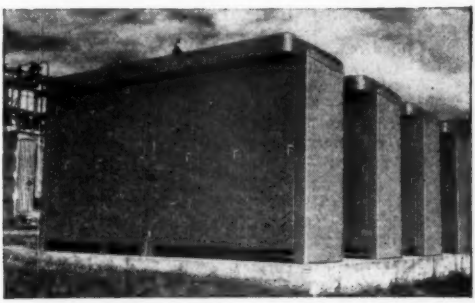
Many types of General Electric capacitors are available. They're economical to install, require practically no maintenance. For information call your nearest G-E Apparatus sales office, or write to Section 407-37E, General Electric Co., Schenectady 5, N.Y.



CAPACITORS PAY. Pacific Power & Light finds that capacitor installations such as this 3300-kvar 4-kv G-E equipment pay for themselves by reducing power system losses.



82,000 KVAR of capacitors—about 17% switched—have been installed on distribution circuits. 600 kvar of G-E capacitors above are installed next to voltage regulators near Sunnyside, Wash.



60,000 KVAR of capacitors—about 99% switched—have been installed at P P & L substations. The four 1500-kvar, 4-kv G-E equipments above are installed at the Company's Pendleton, Oregon substation.

GENERAL ELECTRIC

259,210 horsepower capacity became available in August when the third steam centrifugal unit at the Eunice, Louisiana, compressor station went into service.

Within the past month, five new customers in southern states began taking gas from Transcontinental's line. These include Duke Power Company at Williamston, S. C., Piedmont Natural Gas Company at Greenville, S. C., Mid-Georgia Gas Company at Conyers, Ga., Frederick Gas Company at Frederick, Md., and Laurens Glass Works, Laurens, S. C.

Georgia Power to Dedicate $32,000,000 Plant Yates

DEDICATION ceremonies for Plant Yates, the Georgia Power Company's 300,000 kilowatt steam-electric generating station on the Chattahoochee river between Newnan and Carrollton, have been scheduled for October 14th, it was announced by Harllee Branch, Jr., president.

E. A. Yates, chairman of the board of directors of The Southern Company, in whose honor the plant is named, will be present for the occasion with other company and local and state government officials.

Construction of Plant Yates, the largest power plant in Georgia, was begun in September, 1948. The plant is being completed in time for the dedication and will cost more than $32,000,000.

The three units at Plant Yates, each with a capacity of 100,000 kilowatts, will produce approximately two billion kilowatt hours of electric energy a year, or more than all of the customers of the Georgia Power Company used in 1940.

Ingersoll-Rand Centrifugal Pump Bulletin

INGERSOLL-RAND COMPANY has just released a new bulletin covering general purpose centrifugal pumps of the cradle-mounted type.

Copies of bulletin (Form 7223) may be obtained from any Ingersoll-Rand branch office or from Ingersoll-Rand Company, Department C.P., 11 Broadway, New York 4, New York.

New Jersey Bell Tel. Awarded "Joshua"

NEW JERSEY BELL TELEPHONE COMPANY, of Newark, New Jersey, has been awarded a "Joshua," symbolizing first prize for the most distinguished use of match book advertising by a utility during the last year, the Match Industry Information Bureau has announced.

The "Joshua," a bronze wall plaque in the shape of a match book, was named for Joshua Pusey, a Philadelphia patent attorney who invented match books.

The awards, initiated this year as an annual program, were planned to help create standards for judging effectiveness of advertising design on match covers, as a model for other advertisers. Winners were selected in 43 classifications of products and services.

The New Jersey Bell match books received top award in its classification on the basis of clear and distinct selling copy, strong layout and good promotional use of space inside the match cover. James V. Ryan, advertising manager, received the plaque on behalf of the company.

Honorable mention certificates in the utility classification went to the following companies: Consolidated Edison Company of New York, Inc., and RCA Communications.

Booklet on Noise Barriers

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1. The names and addresses of the publisher, editor, managing editor, and business managers are:

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Managing editor: Francis X. Welch, Washington, D. C.
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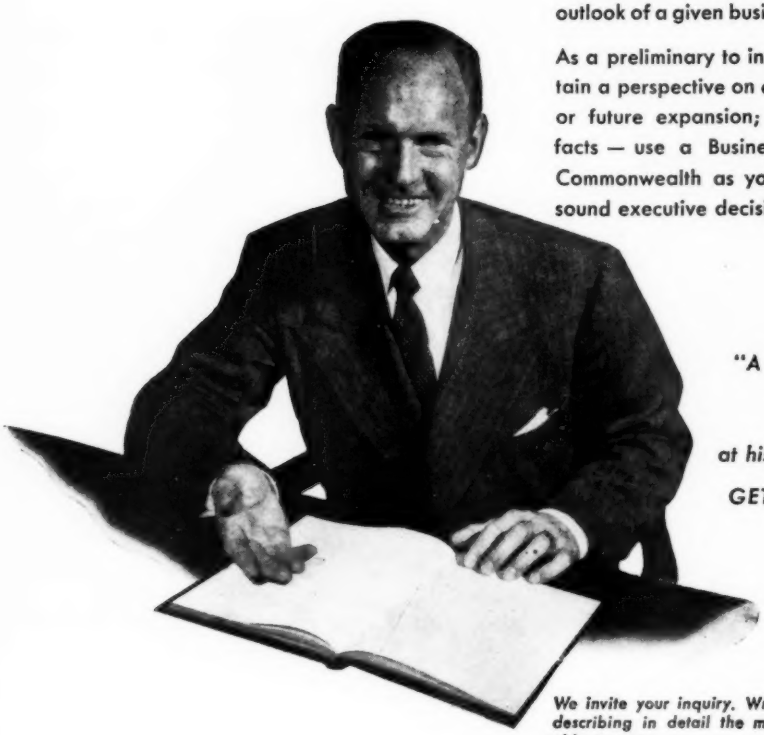

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(Left) Aerial view of test and control buildings and high-voltage yard of new G-E Switchgear Development Laboratory at Philadelphia.

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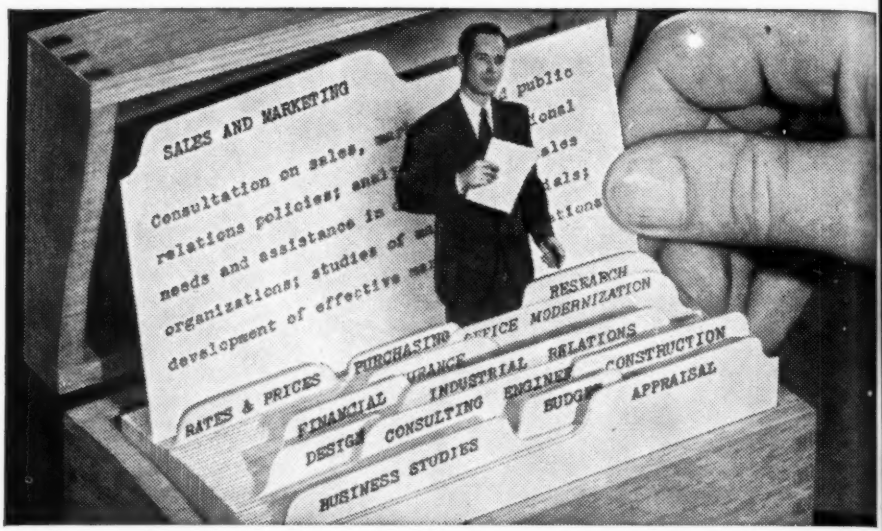

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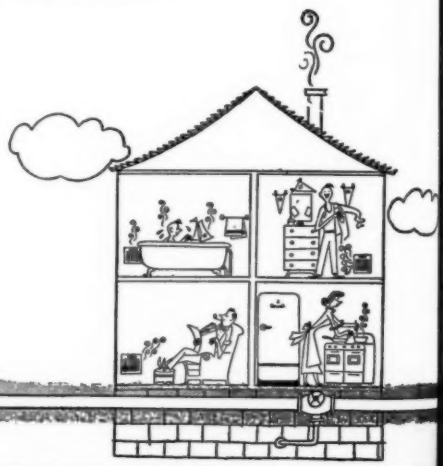

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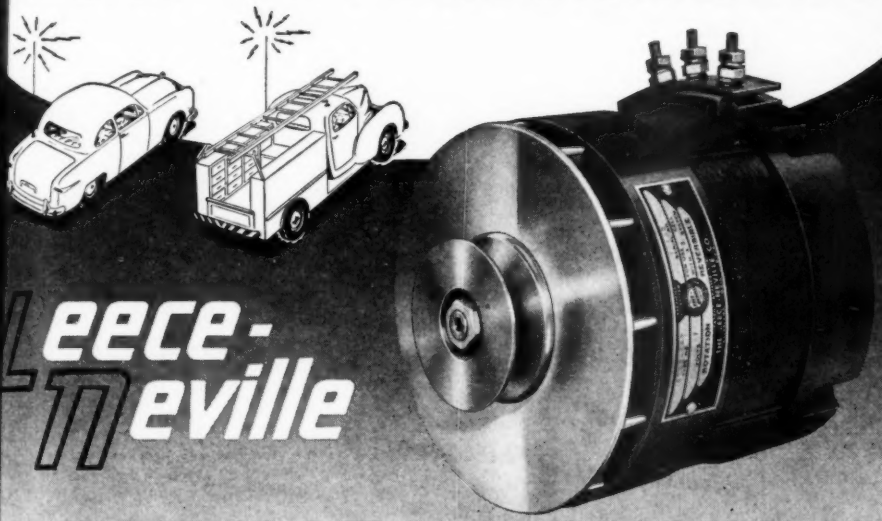

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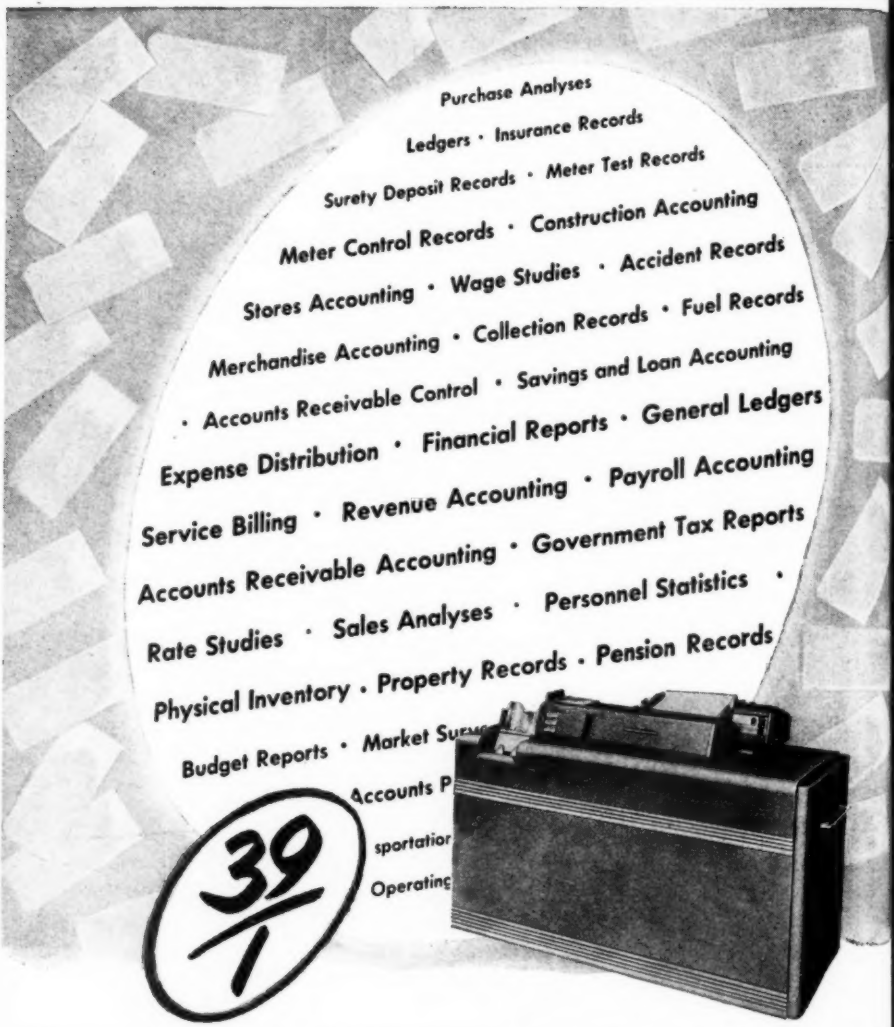

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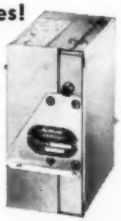

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